



PRESENT:

Mr. Daniel A. Gecker, Chairman
Mr. Sherman W. Litton, Vice-Chairman
Mr. Phillip G. Cunningham
Mr. Russell J. Gulley
Mr. Ronald K. Stack
Mr. Thomas E. Jacobson, Secretary to the Commission,
Planning Director

ALSO PRESENT:

Mr. Kirkland A. Turner, Development Manager,
Community Development
Mr. William D. Poole, Assistant Director,
Development Review, Planning Department
Mr. Glenn E. Larson, Assistant Director, Plans and Information
Section, Planning Department
Ms. Beverly F. Rogers, Assistant Director, Zoning and
Special Projects, Planning Department
Mr. Robert V. Clay, Principal Planner, Zoning and
Special Projects, Planning Department
Ms. Jane Peterson, Principal Planner, Zoning and
Special Projects, Planning Department
Ms. Darla W. Orr, Senior Planner, Zoning and
Special Projects, Planning Department
Mr. Fred Moore, Planner, Zoning and
Special Projects, Planning Department
Mr. Gregory E. Allen, Planning Administrator,
Development Review, Planning Department
Mr. Jeffrey H. Lamson, Senior Planner, Development
Review, Planning Department
Mr. Alan G. Coker, Senior Planner, Development
Review, Planning Department
Mr. Doug Mawby, Senior Planner, Development
Review, Planning Department

Mr. David A. Hainley, Planning Administrator,
Development Review, Planning Department
Ms. Barbara Fassett, Planning Administrator, Advance Planning
and Research Branch, Planning Department
Mr. James K. Bowling, Principal Planner, Advance Planning
and Research Branch, Planning Department
Mr. Carl D. Schlaudt, Principal Planner, Advance Planning
and Research Branch, Planning Department
Mr. Steven F. Haasch, Planner, Advance Planning and
Research Branch, Planning Department
Ms. Kuzhalmozhi Sundar, Planner, Advance Planning and
Research Branch, Planning Department
Ms. Linda N. Lewis, Administrative Secretary, Administrative
Branch, Planning Department
Ms. Deanna D. Harkabus, Secretary, Administrative
Branch, Planning Department
Mr. Jeffrey L. Mincks, Deputy County Attorney,
County Attorney's Office
Mr. David W. Robinson, Assistant County Attorney,
County Attorney's Office
Ms. Tara McGee, Assistant County Attorney,
County Attorney's Office
Mr. Allan M. Carmody, Budget Manager,
Budget and Management Department
Mr. R. John McCracken, Director,
Transportation Department
Mr. Stan B. Newcomb, Principal Engineer,
Transportation Department
Mr. Richard M. McElfish, Director,
Environmental Engineering Department
Ms. Joan Salvati, Water Quality Administrator,
Environmental Engineering Department
Mr. Douglas Pritchard, Jr., Engineering Supervisor,
Environmental Engineering Department
Mr. Randolph Phelps, Senior Engineer,
Utilities Department
Assistant Fire Marshal Steve Hall, Fire and Life Safety,
Fire Department
Dr. Billy K. Cannaday, Jr., Superintendent,
School Administration
Ms. Cynthia Owens-Bailey, Director of Planning,
School Administration

WORK SESSION

At approximately 12:00 p. m., Messrs. Gecker, Litton, Cunningham, Gulley, Stack and staff met in the Executive Session Meeting Room, Chesterfield County Administration Building for lunch and a work session to discuss the following:

- A. Requests to Postpone Action, Emergency Additions or Changes in the Order of Presentation.**
- B. Review Day's Agenda.**
(NOTE: At this time, any items listed for the 3:00 p. m. and 7:00 p. m. Sessions will be discussed.)
- C. Plans and Information Section Projects Update.**
- D. Work Program – Review and Update.**
- E. Discussion Relative to:**
 - ▶ **Retaining Wall Design.**
 - ▶ **Proposed 2004-2005 Planning Department Major Projects.**
 - ▶ **Proposed Planning Commission Meeting Dates for 2004-2005.**

A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

Mr. Jacobson requested an additional item be added to Item E to consider amendment of the Commission's meeting date schedule to set Monday, December 22, 2003, as the alternate (2nd) meeting date to accommodate any potential caseload backlog in the event a second meeting may be necessary.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission amended the agenda to add an additional item to Item E to consider amendment of the Commission's meeting date schedule to set Monday, December 22, 2003, as the alternate (2nd) meeting date to accommodate any potential caseload backlog in the event a second meeting may be necessary

AYES: Messrs. Gecker, Litton, Cunningham and Gulley.
ABSENT: Mr. Stack.

B. REVIEW DAY'S AGENDA.

Mr. Allen updated the Commission as to the status of, and staff's recommendation for, the requests to be considered during the Afternoon Session.

Mr. Stack arrived at the meeting at approximately 12:35 p. m.

During discussion of the 3:00 p. m. Afternoon Session cases, Mr. Litton requested that the 7:00 p. m. Evening Session agenda be amended to place Case 04PR0192, First Choice Public-Private Partners (Genito Road High School buffer reduction), on the agenda immediately following the three (3) Substantial Accord Determination proposals related to school sites.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission amended the 7:00 p. m. Evening Session agenda to place Case 04PR0192, First Choice Public-Private Partners (Genito Road High School buffer

reduction), on the 7:00 p. m. agenda immediately following the three (3) Substantial Accord Determination proposals related to school sites.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

Mr. Hainley updated the Commission as to the status of, and staff's recommendation for, a request to be considered during the Afternoon Session.

Mr. Clay updated the Commission as to the status of, and staff's recommendation for, the upcoming caseloads and the zoning requests to be considered during the Evening Session.

Mr. Schlaudt updated the Commission as to the status of, and staff's recommendation for, the proposed Public Facilities Plan Amendment relating to the School Component scheduled for public hearing during the Evening Session.

The Commission agreed that, at the Evening Session, they would take public comment on the Public Facilities Plan (School Component), close the public hearing and defer the Plan to the December 16, 2003, Planning Commission Work Session to allow staff the opportunity to provide a timetable for scheduling a future work session/public hearing on the complete Public Facilities Plan.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

Mr. Haasch updated the Commission as to the status of, and staff's recommendation for, the proposed Etrick Village Plan and related Ordinance Amendment scheduled for public hearing during the Evening Session.

Ms. Salvati, updated the Commission as to the status of, and staff's recommendation for, the proposed Chesapeake Bay Ordinance Amendment scheduled for public hearing during the Evening Session.

C. PLANS AND INFORMATION SECTION PROJECTS UPDATE.

Ms. Fassett and Messrs. Bowling and Schlaudt, updated the Commission as to the status of ongoing and future meetings for pending projects, including the Northern Area Plan, the Upper Swift Creek Plan and the Chester Village Plan, and a County-wide Planning Education Project.

D. WORK PROGRAM.

Upon conclusion of discussion relative to the Commission's Work Program, it was the consensus of the Commission to adopt their December 2003 Work Program, as outlined by Mr. Jacobson.

E. DISCUSSION RELATIVE TO:

► **RETAINING WALL DESIGN.**

Messrs. Allen and Mawby presented an overview of, and answered questions, relative to specific language provided from the Code of Ordinances from the Town of Cary, North Carolina, addressing architectural compatibility/appearance of retaining walls.

Upon conclusion of the discussion, the Commission requested that staff discuss this information at the December 2003 Quarterly Developers Meeting and bring forward a draft Ordinance Amendment for discussion at the January 2004 Work Session.

► **PROPOSED 2004-2005 PLANNING DEPARTMENT MAJOR PROJECTS.**

Messrs. Jacobson and Larson presented an overview of, and answered question, relative to the proposed 2004-2005 Planning Department Major Projects, noting the purpose of the session was to review recommended projects and discuss possible new projects to add to the Planning Department's Work Program for FY 2004-05.

Discussion ensued relative to projects to be added to the FY04-05 work program; projected Planning Department and/or other County Department/Outside resources needed to complete the projects; existing plans, projects and/or programs, etc.

Upon conclusion of the discussion, the Commission requested staff provide additional detailed information and timelines for implementation of the listed projects for further discussion at the December 16, 2003, Work Session.

► **PROPOSED PLANNING COMMISSION MEETING DATES FOR 2004-2005.**

Mr. Jacobson noted the proposed Planning Commission Meeting Dates for 2004-2005 was provided for the Commission's perusal and would be scheduled for action at their January 20, 2004, Annual Meeting.

► **PLANNING COMMISSION ALTERNATE MEETING DATE FOR DECEMBER 2003.**

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission amended their 2003 Meeting Date Schedule to set Friday, December 19, 2003, as an alternate (2nd) meeting date to accommodate any potential caseload backlog, in the event a second meeting may be necessary.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

The Commission recessed at approximately 2:29 p. m., agreeing to reconvene at 3:00 p.m. in the Public Meeting Room for the Afternoon Session.

3:00 P. M. AFTERNOON SESSION

Mr. Gecker, Chairman, called the Afternoon Session to order at approximately 3:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building.

A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

Mr. Gecker requested that Case 04PR0192, First Choice Public-Private Partners (Genito Road High School buffer reduction), be put back on the Afternoon Session agenda to allow a staff presentation and public comment, if any, with action to be deferred to the 7:00 p. m. Session, immediately following action on the three (3) proposed Substantial Accord Determination requests relating to school sites.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission amended the agenda to place Case 04PR0192, First Choice Public-Private Partners (Genito Road High School buffer reduction), in sequence on the Afternoon Session agenda, to allow a staff presentation and public comment, if any, with action to be deferred to the 7:00 p. m. Session, immediately following action on the three (3) proposed Substantial Accord Determination requests relating to school sites.

AYES: Messrs. Gecker, Litton, Gulley and Stack.

ABSTENTION: Mr. Cunningham, as he was late joining the meeting and was not present for the discussion/motion.

B. APPROVAL OF PLANNING COMMISSION MINUTES:

Mr. Jacobson stated that the first order of business would be the consideration of the October 21, 2003, Planning Commission regularly scheduled meeting minutes and the October 27, 2003, Special Planning Commission Work Session meeting minutes.

► **OCTOBER 21, 2003 REGULARLY SCHEDULED MEETING.**

On motion of Mr. Stack, seconded by Mr. Litton, the Commission resolved to approve the October 21, 2003, Planning Commission regularly scheduled meeting minutes, as written.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

► **OCTOBER 27, 2003, SPECIAL WORK SESSION.**

On motion of Mr. Litton, seconded by Mr. Stack, the Commission resolved to approve the October 27, 2003, Planning Commission Special Work Session meeting minutes, as written.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

C. CONSIDERATION OF THE FOLLOWING REQUESTS:

◆ **CASES WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND THERE WAS NO OPPOSITION PRESENT.**

03PR0350: In Bermuda Magisterial District, **BETTER HOUSING COALITION** requested site plan approval of Phases 1A and 1B for two (2) office buildings totaling 14,520 square feet at The Commons at Winchester Greens and to waive the requirement for a twenty-five (25) foot buffer along the west property line of these phases. This development is commonly known as **THE COMMONS AT WINCHESTER GREENS**. This request lies in a Community Business (C-3) District on part of two (2) parcels totaling 35.7 acres fronting approximately 235 feet on the north line of Bensley Commons Boulevard, also lying approximately 380 feet west of the intersection of Jefferson Davis Highway and Bensley Commons Boulevard. Tax IDs 789-678-Part of 8292 and 790-678-Part of 8299 (Sheet 18).

Ms. Karen Miller, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission resolved that site plan approval of Phases 1A and 1B for two (2) office buildings totaling 14,520 square feet at The Commons at Winchester Greens and waiver of the requirement for a twenty-five (25) foot buffer along the west property line of these phases, for Case 03PR0350, Better Housing Coalition (The Commons at Winchester Greens), shall be and it thereby was granted, subject to the following conditions:

CONDITION

Plans shall be resubmitted for administrative review and approval in accordance with the attached review comments.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

03TS0335: In Bermuda Magisterial District, **GREENBRIAR DEVELOPMENT LLC** requested tentative approval of a tentative plat for fifty-four (54) lots. This development is commonly known as **GREENBRIAR WOODS**. This request lies in a Residential (R-12) District on a 22.30 acre tract fronting on the current northern terminus of Override Drive and the western terminus of a stub off Horseshoe Drive. Tax ID 790-640-9502 (Sheet 34).

Mr. Larry Horton, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr., seconded by Mr., the Commission resolved that tentative approval of a tentative plat for fifty-four (54) lots for Case 03TS0335, Greenbriar Development LLC (Greenbriar Woods), shall be and it thereby was granted, subject to the following conditions and review comments:

CONDITIONS

1. Prior to land disturbance permit issuance and/or recordation updated approval letters for the construction plans shall be issued by Virginia Department of Transportation, Environmental Engineering and Chesterfield Department of Transportation. (EE)
2. The permanent drainage improvements (storm sewer) will be installed per the approved construction plans from the temporary turnaround of Override Drive down to the twenty-four (24) inch ES-1, structure #8. (EE)
3. Per Section 8-4 of the Erosion Control Ordinance, prior to the issuance of a Land Disturbance Permit, the Environmental Engineering Department shall require copies of applicable correspondence from the United States Army Corps of Engineers (USACOE) so that it may be determined that all wetland permits have been received. A qualified wetland expert can document his professional opinion that this project falls within the non-notification provisions of the USACOE Nationwide Permit. (EE)
4. Any timbering that is to occur as the first phase of infrastructure construction will be incorporated into the project's erosion and sediment control plan narrative and will not

commence until the issuance of a Land Disturbance Permit for subdivision construction and proper installation of erosion control measures. (EE)

5. The USACOE jurisdictional wetlands shall be shown on the construction plans and subdivision plat. (EE)
6. Prior to construction plan approval, the Environmental Engineering Department must have received documentation that the subdivider or his representative has notified certain property owners determined by the Department of the proposed adjacent construction. (EE)
7. The areas of stormwater runoff concentration as discussed in the Environmental Engineering Department tentative report dated July 10, 2003, will be field located and shown on the plans. The construction plans shall designate the affected lots with an NBP, and an engineered storm sewer, filling, grading and drainage plan shall be included in the construction plans. (EE)
8. The subdivider shall post signs demarking the limits of the RPA so builders and homeowners may be informed as to the limitations imposed on these areas. Specific plans for the exact number and placement of the signs shall be approved by the Environmental Engineering Department. (EE)
9. The erosion and sediment control plan for the project shall call for the placement of polyethylene fence or its equivalent in accordance with STD & SPEC 3.01 of the Virginia Erosion and Sediment Control Handbook along the RPA limits prior to recordation of the subdivision plat. (EE)
10. Dimensioned building envelopes as shown on the tentative plan along with any other directed by the Environmental Engineering Department shall be placed on the construction plans and subdivision plat. (EE)
11. The floodplain as shown on the approved construction plans and the recorded subdivision plat shall be the result of hydrologic and hydraulic engineering methods and assumptions which are approved by the Environmental Engineering Department. (EE)
12. The subdivider shall achieve CBPA compliance within seven (7) days of the approval of the tentative plat. (EE)
13. The limits of the tentative plan shall be adjusted to include the southern portion of Cara Hill Lane from the existing tentative boundary to the end of State Maintenance on Horseshoe Bend Drive. A note shall also be placed on the tentative plan sheet to indicate that said section of Cara Hill Lane shall be constructed with initial subdivision street construction. (T)

REVIEW COMMENTS

- A. The RPA limits should be established using a 100 foot conservation area. With the documentation provided we are accepting the wetlands limits as portrayed on this tentative plan as opposed to previous versions of the tentative which showed a significantly greater amount of wetlands adjacent, contiguous and connected by surface flow to the creek. The

100 foot distance measured between the RPA limits and the creek bank should be indicated as "100 foot conservation area" rather than "100 foot RPA." There are locations, however, where the distance between the top of bank and the RPA limits is no more than fifty (50) feet. Please provide a building envelope on Lot 14 in relation to the RPA. Lot 15 may need to be adjusted by shortening the 135 foot depth of Lots 16 and 17. (EE)

- B. The crosshatched geometric shapes on the tentative plan and construction plan should be dimensioned and identified as such on the construction plan. (EE)
- C. With respect to the corridors of concentrated drainage passing through the lots as identified in the previous report of July 10, 2003, we have reviewed the revised construction plan sheets to assess the incorporation of these areas in the engineering of the construction plans. The drainage corridors which have been observed are as follows:
 - 1. Lots 1 and 2: The topography sheets indicate the accumulation of storm water runoff from as far up as Lot 3 on Override Drive passing through Lots 1 and 2 before entering into the stream. From our experience this is an excess amount of stormwater runoff to be conveyed across the two (2) lots in a location that will be so close to the rear of the homes built on these two (2) lots. Please address on the construction plans.
 - 2. Lot 44: This lot is now Lots 49 and 48. The construction plans do not appear to address the very clear concentrated swale passing through the center of Lot 49 then through Lot 48 which indicates that the man made contours will concentrate drainage on an alignment that passes through the proposed building envelope area. In light of the fact that the roads sag on Override Drive above the double forty-eight (48) inch pipes is at elevation 129.08 the minimum finished floor elevation for the houses which should be specified on the construction grading plans would be 130.08. The grading plan for Lots 47, 48, and 49 should provide a building pad elevation and location which facilitates the achievement of this minimum floor elevation and which creates a ground configuration which facilitates the requirement of there being six (6) inches of fall away from all outside walls of the house for a distance of ten (10) feet. The Environmental Engineering lot grading criteria carries building inspection grading criteria a step forward in saying that engineered grading plans should not create channelized flow for a distance of at least twenty (20) feet from the walls of the house.
 - 3. Lots 35 – 37. These lots have been addressed by the proposed drainage swale between Lots 34, 35, 36 and 37.
 - 4. Lot 22. The construction plans should call for the placement of a drainage swale down the common side property lines of Lots 21 and 22 within a sixteen (16) foot easement, eight (8) foot of which would be on each lot. Filling and grading on Lot 21 to direct storm water runoff into this side yard swale should be specified.
 - 5. Lot 1, Section 2. OK

6. Erosion control measures related to the above need to be added to the construction plan addendum. (EE)
- D. With respect to Tentative Condition #8 regarding the posting of signs demarking the limits of the RPA, no reference to this issue could be located on the construction plan addendum. (EE)
- E. With reference to Tentative Condition #9 pertaining to the placement of polyethylene fence along the RPA, the construction plans will also need to address this condition. (EE)
- F. Standard conditions. (P)
- G. All setbacks around cul-de-sacs shall be uniform. (P)
- H. All lots shall be recorded as one (1) section or Lots 16-32 shall not be recorded until the connection to Horseshoe Bend Drive is made to maintain compliance with Section 17-76. (P)
- I. Building envelopes shall be shown on the final check for all lots with envelopes shown on the tentative plat. (P)
- J. All private access easements shall be vacated to the extent required to record the record plat. (P)
- K. All proffered conditions regarding house size from Case 88S010 shall be noted on the final check and record plats. (P)
- L. The required restrictive covenants shall be submitted with a copy of the recorded covenants for Greenbriar Section 5 for review and approval. (P)
- M. The use of the public water and wastewater systems is required by Ordinance. (U)
- N. It will be the responsibility of the subdivider to make certain that all proposed sections within the development complies with the Chesterfield County Fire Department's required fire flow of 1,000 gallons per minute at 20 per square inch residual. (U)
- O. Approval of the tentative subdivision is not an approval of the water and/or sewer layout as shown on the subdivider's tentative subdivision plat. The review of the tentative water/sewer layout is being performed to identify any potential controversial problems and to integrate the Utilities Department recommendations as set forth in the latest water/sewer facilities plan in an effort to facilitate a much smoother review of the final design of each section. The subdivider understands that as the final details of each development section are reviewed, the Utilities Department may require changes to the original layout as deemed in the best interest of the County, which ultimately benefits the department's customers as users of public water/sewer systems. (U)
- P. All improvements to existing transportation facilities required as a result of the impact of this project shall be the responsibility of the subdivider. Approval of detailed construction plans is a prerequisite to issuance of a land use permit allowing access onto and construction within

state maintained rights of way. It should be noted that plan approval at this time does not preclude the imposition of additional requirements at construction plan review. (VDOT)

- Q. All right of way widths as shown are preliminary and should be so noted. Actual widths shall be determined by roadway design per 24 VAC 30-90-150 OF THE 1996 Subdivision Street Requirements (SSR). (VDOT)
- R. The design of any/all proposed landscape embellishments (i.e., landscaping, hardscaping, signage, lighting, irrigation, fencing, etc.) to be installed within state maintained rights of way must be submitted to VDOT for review in conjunction with the initial submittal of road construction plans. VDOT approval of said plan must be granted prior to installation. Failure to comply with these requirements may result in the removal of said embellishments prior to state acceptance. (VDOT)
- S. All roads shall be designed and constructed per current VDOT standards and specifications. (VDOT)
- T. The construction of all roadways which are not defined as arterials or collectors in Chesterfield County's Thoroughfare Plan requires the implementation of a comprehensive inspection program to insure compliance with VDOT standards and specifications. Inspection services shall be provided utilizing one (1) of the following options:
 - 1. The applicant may retain the services of a licensed geotechnical engineer to perform the required inspection and testing, or,
 - 2. The applicant may request that VDOT provide inspection services through the establishment of an accounts receivable with the contractor responsible for providing all required material testing, or,
 - 3. The applicant may request that VDOT accept bonding for a period longer than the standard one (1) year performance bond in lieu of either 1 or 2 above. The additional bonding period shall not exceed five (5) years beyond the standard one (1) year performance bond posted at state acceptance. Surety rates shall be in the amount of \$33 per square foot for man-made fill sections and \$67 per linear foot for trench installations. (VDOT)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

04PM0197: In Bermuda Magisterial District, **UNITED STATES POSTAL SERVICE** requested Planning Commission approval of a minor site plan for an additional entrance and parking lot revisions at Rock Hill Road, as required by Proffered Condition 18 of zoning Case 97SN0150. This project is commonly known as **USPS NEW ENTRANCE-CHESTER POST OFFICE**. This requests lies in a Neighborhood Business (C-2) District on part of a 4.19 acre parcel lying approximately 250 feet off the north line of West Hundred Road, also fronting approximately 340 feet on the west line of Rock Hill Road. Tax ID 797-655-Part of 2444 (Sheet 26).

Mr. Chris Wiley, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Cunningham, seconded by Mr. Gulley, the Commission resolved that minor site plan approval for an additional entrance and parking lot revisions at Rock Hill Road, as required by Proffered Condition 18 of zoning Case 97SN0150, for Case 04PM0197, United States Postal Service (USPS New Entrance-Chester Post Office), shall be and it thereby was granted, subject to the following condition and review comment:

CONDITION

Plans shall be revised and submitted for administrative review that address the following review comment.
(P)

REVIEW COMMENT

Provide a revised landscape plan that provides replacement plants for plants removed with this project. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

04PW0166: In Midlothian Magisterial District, **JAMES BARKER, WACHOVIA** requested Planning Commission approval of a development standards waiver to the Midlothian Village Core District setback for drives and parking to be located at or behind the front line of the building (Section 19-609(b)). This development is commonly known as **WACHOVIA BANK - MIDLOTHIAN VILLAGE**. This request lies in a Community Business (C-3) District on a .989 acre parcel lying approximately 190 feet on the north line of Midlothian Turnpike, also fronting approximately 200 feet on the east line of Crowder Drive and located in the northeast quadrant of the intersection of these roads. Tax ID 729-708-3607 (Sheet 5).

Mr. James Barker, representing the request, introduced Mr. Don Tate, engineer for the project, and accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission found Case 04PW0166, James Barker (Wachovia Bank-Midlothian Village), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Section 19-609(b), Specific Area Standards of the Midlothian Village Core District of the Zoning Ordinance requiring setbacks for drives and parking to be located at or behind the front line of the building, subject to the following conditions:

CONDITIONS

1. The drive-up canopy shall be located on the north side of the property, generally as indicated on the attached plan submitted with this request titled "Midlothian Village Financial Center" Proposed Site Plan #8, prepared by Baskervill & Son, dated, September 12, 2003. (P)
2. The architecture of the building shall be substantially similar to the attached rendering submitted with this request titled Wachovia "Proposed Financial Center" prepared by Baskervill & Son. (P)

3. The following elements indicated on the attached landscape plan submitted with this request shall be required with the final site plan as follows:
- a.) A five (5) foot wide sidewalk constructed within the right of way along the entire frontage of Midlothian Turnpike and Crowder Drive.
 - b.) A five (5) foot wide sidewalk of brick or concrete pavers constructed from the front entrance of the bank, through the parking lot and connecting to the walk along Midlothian Turnpike.
 - c.) Along the Midlothian Turnpike and Crowder Drive frontage, a decorative metal fence and brick columns with pre-cast caps shall be constructed per the detail provided.
 - d.) The landscape materials shall comply with the Village of Midlothian Technical Manual. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **CASES WHERE THE APPLICANT DID NOT ACCEPT THE RECOMMENDATION AND/OR THERE WAS PUBLIC OPPOSITION OR CONCERN.**

04PR0192: In Clover Hill Magisterial District, **FIRST CHOICE PUBLIC-PRIVATE PARTNERS** requested Planning Commission approval for a buffer reduction for Phase Two of the grading plan for the proposed Genito Road High School. This development is commonly known as **GENITO ROAD HIGH SCHOOL**. This request lies in a Light Industrial (I-1) District on a 12.35 acre parcel fronting approximately 940 feet on the west line of Route 288, also lying approximately 1,500 feet south of the intersection of Genito Road and Route 288. Tax ID 733-686-0961 (Sheet 10).

Mr. Steve Raugh, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Cunningham, the Commission resolved to defer action on Case 04PR0192, First Choice Public-Private Partners (Genito Road High School buffer reduction), to the 7:00 p. m. Session, immediately following action on the three (3) proposed Substantial Accord Determination requests relating to school sites.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

D. FIELD TRIP AND DINNER.

◆ **FIELD TRIP SITE SELECTION.**

The Commission agreed to forego their Field Trip Agenda to visit requests sites.

◆ **DINNER LOCATION.**

On motion of Mr. Litton, seconded by Mr. Cunningham, the Commission resolved to meet for dinner at John Howlett's Tavern for dinner.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

E. ADJOURNMENT.

There being no further business to come before the Commission, the 3:00 p. m. Session was adjourned at approximately 3:19 p. m. and Messrs. Litton, Gecker, Cunningham, Gulley, Stack and staff departed the Public Meeting Room, agreeing to meet at 5:00 p. m. at John Howlett's Tavern for dinner.

During dinner, there was discussion pertaining to various rezoning and Conditional Use request sites.

7:00 P. M. EVENING SESSION

At approximately 7:00 p. m., Mr. Gecker, Chairman, called the Evening Session to order.

A. INVOCATION.

Mr. Cunningham presented the invocation.

B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.

Mr. Clay led the Pledge of Allegiance to the Flag.

C. REVIEW MEETING PROCEDURES.

Mr. Jacobson apprised the Commission of the agenda for the next two (2) months, noting the December 16, 2003, agenda was comprised of twelve (12) cases and the January 20, 2004, agenda had a total of fifteen (15) cases.

D. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

Mr. Cunningham requested that Case 02SN0296, Ted A. Williams, Thomas A. Williams, Grace M. Williams Trust and George P. Emerson, Jr. be moved from the Discussion agenda to the Deferral Request by Individual Planning Commissioner agenda.

On motion of Mr. Cunningham, seconded by Mr. Litton, the Commission amended the agenda to move Case 02SN0296, Ted A. Williams, Thomas A. Williams, Grace M. Williams Trust and George P. Emerson, Jr. from the Discussion agenda to the Deferral Requests by Individual Planning Commissioners agenda.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

Mr. Jacobson introduced Mr. Brandon Stidham, Powhatan Planning Director, who was attending the meeting.

E. CONSIDERATION OF THE FOLLOWING REQUESTS:

◆ **REQUESTS FOR DEFERRAL BY APPLICANTS.**

04SN0133: In Matoaca Magisterial District, **GARY T. & BONNIE A. JENNINGS** requested deferral to December 16, 2003, of consideration for rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) on 29.8 acres and a Conditional Use Planned Development on 7.9 acres relative to access in an Agricultural (A) District. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for mixed use corridor and single family residential use of 2.0 units per acre or less. This request lies on 37.7 acres fronting approximately 300 feet on the south line of Hull Street Road, approximately 2,300 feet east of Baldwin Creek Road. Tax IDs 708-665-9636; 708-666-7360 and 9340; 708-667-7101 and 8937; 709-665-3176; 709-666-2039, 3731 and 4163 (Sheets 15 and 23).

Mr. Andy Scherzer, the applicant's representative, requested deferral to the December 16, 2003, Planning Commission public hearing to resolve an access issue.

Mr. Watson Marshall, representing Old Dominion Tractor who owned adjacent property, did not oppose the deferral but expressed concerns relative to the proffered conditions.

In response to Mr. Stack's request, Mr. Scherzer indicated he would meet with Mr. Marshall to discuss his concerns.

The following motion was made at the applicant's request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to defer Case 04SN0133 to the December 16, 2003, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

02SN0238: In Matoaca Magisterial District, **DOUGLAS R. SOWERS** requested deferral to December 16, 2003, of consideration for amendment to Conditional Use Planned Development (Case 88S008) and amendment of zoning district map on part of property which is commonly known as Greenspring's A. E. Howard tract. Specifically, the applicant desires to develop this 136.3 acre tract as a single development from the originally-zoned 1,312.7 acre tract. In general, amendments are requested relative to the approved Master Plan, historic structures, provision of a golf course, road improvements, land dedications and reservations, utilities, drainage, erosion and water quality. A mixed use development consisting of residential, office and commercial uses is planned. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use and single family residential use of 2.0 units per acre or less. This request lies in Residential (R-9) and Corporate Office (O-2) Districts on 136.3 acres fronting approximately 1,200 feet on the east line of Otterdale Road, approximately 2,900 feet south of Gamecock Road. Tax ID 718-691-6889 (Sheet 9).

Mr. Litton stated his firm, Austin Brockenbrough and Associates, was associated with this request, declared a potential conflict of interest pursuant to the Virginia Conflict of Interest Act and excused himself from the meeting at approximately 7:07 p. m.

Mr. John Easter, the applicant's representative, requested deferral to the December 16, 2003, Planning Commission public hearing to further address transportation issues.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to defer Case 02SN0238 to the December 16, 2003, Planning Commission public hearing.

AYES: Messrs. Gecker, Cunningham, Gulley and Stack.
ABSENT: Mr. Litton.

Mr. Litton returned to the meeting at approximately 7:09 p. m.

03SN0307: In Matoaca Magisterial District, **DOUGLAS R. SOWERS** requested **deferral to the regularly scheduled February 2004 meeting** of consideration for rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of up to 2.2 units per acre. This request lies on 98.7 acres fronting approximately 320 feet on the north line of Hensley Road approximately 2,600 feet west of N. Donegal Road, also fronting approximately 1,850 feet on the south line of Spring Run Road, measured from Bailey Bridge Road. Tax ID 730-663-3520 (Sheet 24).

Mr. Oliver D. "Skitch" Rudy, the applicant's representative, requested deferral to the regularly scheduled February 2004, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to defer Case 03SN0307 to the regularly scheduled February 2004 Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

03SN0316: In Midlothian Magisterial District, **JAMES DORAN CO.** requested deferral to January 20, 2004, of consideration for rezoning and amendment of zoning district map from Agricultural (A), Community Business (C-3) and General Business (C-5) to Community Business (C-3) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for suburban commercial and planned transitional uses. This request lies on 33.9 acres fronting approximately 1,400 feet on the north line of Midlothian Turnpike approximately 400 feet west of Winterfield Road, also fronting approximately 900 feet on the west line of Winterfield Road approximately 550 feet north of Midlothian Turnpike. Tax IDs 724-709-2311, 2528, 4210, 5831, 6911, 7661 and 9121; and 725-709-1125 (Sheet 5).

Mr. William Shewmake, the applicant's representative, requested deferral to the January 20, 2004, Planning Commission public hearing, noting he understood the agenda for January had reached the maximum caseload capacity and that the addition of an additional thirty (30) day deferral by Mr. Gecker was acceptable.

There was no opposition to the deferral.

The following motion was made at the applicant's and Mr. Gecker's request.

On motion of Mr. Gecker, seconded by Mr. Cunningham, the Commission resolved to defer Case 03SN0316 to the regularly scheduled February 2004 Planning Commission public hearing, with sixty (60) days at the applicant's request and thirty (30) days at Mr. Gecker's request.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **REQUEST FOR DEFERRAL BY INDIVIDUAL COMMISSIONER.**

02SN0296: (Amended) In Bermuda Magisterial District, **TED A. WILLIAMS, THOMAS A. WILLIAMS, GRACE M. WILLIAMS TRUST AND GEORGE P. EMERSON, JR.** requested rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3) of 19.0 acres plus proffered conditions on 1.4 acres currently zoned Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for neighborhood mixed use. This request lies on 20.4 acres fronting approximately 850 feet on the south line of East Hundred Road, across from Rivers Bend Boulevard. Tax IDs 815-651-3676 and 7189 and 815-652-2337, 3334, 3521 and 4930 (Sheet 27).

Mr. Dean Hawkins, the applicant's representative, indicated deferral to the December 16, 2003, Planning Commission public hearing by Mr. Cunningham was acceptable.

There was no opposition to the deferral.

The following motion was made at Mr. Cunningham's request.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission, on their own motion, resolved to defer Case 02SN0296 to the December 16, 2003, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **REQUESTS WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION PRESENT.**

03SN0298: In Clover Hill Magisterial District, **HUGH OWENS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.2 units per acre or less. This request lies on 20.4 acres fronting approximately 650 feet on the east line of South Old Hundred Road, approximately 450 feet south of Echo Ridge Drive. Tax ID 732-682-2226 (Sheet 10).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 03SN0298 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Public water and wastewater shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the county of Chesterfield prior to the issuance of building permit:
 - a. \$9,000.00 per dwelling unit, if paid prior to July 1, 2003; or
 - b. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003.
 - c. In the event the cash payment is not used for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
3. The maximum density of this development shall not exceed 31 total lots. Lots accessing solely through Echo Ridge Subdivision shall be limited to four (4) lots. (P)
4. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
5. Direct access from the property to Old Hundred Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
6. In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right of way along the east side of Old Hundred Road, measured from the centerline of that part of Old Hundred Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
7. To provide an adequate roadway system at the time of complete development, the owner/developer shall be responsible for the following:
 - a. Construction of additional pavement along Old Hundred Road at each approved access to provide right and left turn lanes, if warranted, based on Transportation Department standards;
 - b. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. (T)

8. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 7, shall be submitted to and approved by the Transportation Department. (T)
9. All exposed portions of the foundation of each dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (P)
10. The minimum gross floor area for one story dwelling units shall be 1800 square feet and dwelling units with more than one story shall have a minimum gross floor area of 2000 square feet. (BI)
11. A fifteen (15) foot tree preservation strip shall be maintained along the Southern property line, adjacent to GPIN 732-681-4585. Utility easements shall be permitted to cross this strip in a perpendicular fashion. Any healthy trees that are six (6) inches in caliper or greater shall be retained within this tree preservation strip except where removal is necessary to accommodate the improvements permitted by the preceding sentence. This condition shall not preclude the removal of vegetation from the tree preservation strip that is unhealthy, dying or diseased. (P)
12. Prior to tentative subdivision approval, a Phase I archeological survey shall be performed in accordance with Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines and provided to the Chesterfield County Parks and Recreation Department. (P&R)
13. Prior to subdivision recordation, the property located to the north of the intermittent stream (approximately 2.0 acres) shall be dedicated as open space to the Old Hundred Mill Homeowners Association. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

04SN0129: In Bermuda Magisterial District, **JAMES E. AND BRENDA F. BRIGGS** requested rezoning and amendment of zoning district map from Community Business (C-3) to General Business (C-5). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general commercial use. This request lies on 0.9 acre lying approximately 310 feet off the west line of Jefferson Davis Highway, approximately 220 feet north of Southland Drive. Tax ID 798-655-Part of 2809 (Sheet 26).

Mr. James Briggs, one of the applicants, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission resolved to recommend approval of Case 04SN0129 and acceptance of the following proffered condition:

PROFFERED CONDITION

The public water system shall be used. (U)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

04SN0130: In Matoaca Magisterial District, **VERIZON WIRELESS** requested amendment to Conditional Use Planned Development (Case 02SN0217) and amendment of zoning district map relative to the time limitation for a temporary communications tower. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use on 1-5 acre lots, suited to R-88 zoning. This request lies on 3.7 acres fronting approximately 375 feet on the north line of Trents Bridge Road, also fronting approximately 375 feet on the west line of River Road and located in the northwest quadrant of the intersection of these roads. Tax ID 754-624-6621 (Sheet 40).

Mr. John Easter, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 04SN0130 and acceptance of the following proffered condition:

PROFFERED CONDITION

This Conditional Use Planned Development shall automatically expire on June 1, 2004. (P)

(Note: This Proffered Condition supercedes Proffered Condition 4 of Case 02SN0217.)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

04SN0134: In Midlothian Magisterial District, **FOX RICHMOND GROUP LLC** requested Conditional Use and amendment of zoning district map to permit an outside public address system. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use. This request lies on 1.6 acres lying approximately 240 feet off the south line of Robious Road, east of Huguenot Road. Tax ID 740-714-8131 (Sheet 2).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Stack, the Commission resolved to recommend approval of Case 04SN0134, subject to the following condition:

CONDITION

An outside public address system shall be permitted as accessory to restaurant uses. Such systems shall be limited to outdoor seating and dining areas. Such system shall not be audible to any property located in an A, R, R-TH or R-MF District. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

03SN0200: In Matoaca Magisterial District, **ROCK VIEW HOMES, INC.** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-7) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2 units per acre or less. This request lies on 157.6 acres fronting in two (2) places for a total of approximately 550 feet on the west line of Otterdale Road, approximately 600 feet south of Broadmoore Road. Tax IDs 707-682-4055, 708-681-7138 and 708-683-1628 and 6612 (Sheets 8, 9, 14 and 15).

Mr. John Easter, the applicant's representative, accepted staff's recommendation, including the Addendum.

Mr. Daniel Hubbard, an adjacent property owner to the west, expressed concerns relative to increased dump truck traffic on area roads and the potential safety hazard to school children being dropped off from school buses in different neighborhoods, all because area bridges continually wash out and cannot be accessed. He further addressed concerns relative to there being no westbound turn lane access from Route 360 onto Otterdale Road.

Since there was opposition present, it was the consensus of the Commission to place Case 03SN0200 with those cases requiring discussion.

04SN0115: (Amended) In Bermuda Magisterial District, **CESARE M. EVOLA AND TERESA B. EVOLA** requested rezoning and amendment of zoning district map from Agricultural (A) and Community Business (C-3) to Neighborhood Business (C-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for neighborhood mixed use. This request lies on 1.2 acres fronting approximately 200 feet on the north line of West Hundred Road, across from Inge Road. Tax IDs 814-652-6781, 7781 and 7994 (Sheet 27).

Mr. Jeff Collins, the applicant's representative, accepted staff's recommendation, including revised Proffered Condition 3.

Several individuals indicated they wished to speak to the request.

Since there was opposition present, it was the consensus of the Commission to place Case 04SN0115 with those cases requiring discussion.

◆ **CODE AMENDMENT RELATING TO CHESAPEAKE BAY PRESERVATION AREAS.**

◆ ◆ ◆

An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Sections 19-228, 19-229, 19-230, 19-231, 19-232, 19-233, 19-234, 19-235, 19-236, 19-241, 19-242 and 19-301 relating to Chesapeake Bay Preservation Areas.

◆ ◆ ◆

Ms. Salvati presented an overview of the proposed Code Amendment and staff's recommendation.

Mr. Gecker opened the discussion for public comment.

Mr. Jeff Collins, a developer, requested the proposal be deferred for thirty (30) days to allow him an opportunity to review the document to compare staff's proposed changes to the revised mandated State regulations.

There being no one else to speak, Mr. Gecker closed the public comment.

In response to a question from Mr. Gulley, Mr. Mincks stated the Commission could take action to forward a recommendation to the Board of Supervisors this evening and suggested that Mr. Collins could review the proposal during the interim, prior to the Board's consideration at public hearing.

Mr. Collins concurred with Mr. Minck's suggestion.

On motion of Mr. Gulley, seconded by MR. Cunningham, the Commission resolved to recommend approval of the following Code Amendment:

(1) *That Sections 19-228, 19-229, 19-230, 19-231, 19-232, 19-233, 19-234, 19-235, 19-236, 19-241, 19-242 and 19-301 of the Code of the County of Chesterfield, 1997, as amended, be amended and re-enacted to read as follows:*

DIVISION 4. CHESAPEAKE BAY PRESERVATION AREAS

Sec. 19-228. Resource protection area boundaries.

~~Resource protection areas consist of:~~

(a) At a minimum, resource protection areas shall consist of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources.

(b) Resource protection areas shall consist of:

~~(a)~~ (1) Tidal wetlands.

~~(b)~~ (2) Nontidal wetlands connected by surface flow ~~and that are~~ contiguous to (i) tidal wetlands or (ii) water bodies with perennial flow tributary streams.

~~(c)~~ (3) Tidal shores.

~~(d)~~ (4) A vegetated conservation area a minimum of 100 feet in width, located adjacent to and landward of the environmental features listed in subsections (1) ~~(a)~~ through (3) ~~(c)~~ above, and along both sides of any water body with perennial flow tributary stream. The full conservation area shall be designated as the landward component of the resource protection area.

(5) Such other lands determined by the department of environmental engineering to meet the provisions of subsection (a) of this section and to be necessary to protect the quality of state

waters.

(c) Designation of the components listed in subdivision (5) of subsection (b) shall not be subject to modification unless based on a reliable, site specific information as provided for in 9 VAC 10-20-105.

Sec. 19-229. Resource management area boundaries.

~~Resource management areas consist of one or more of the following:~~

(a) Resource management areas shall include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

(b) A resource management area shall be provided contiguous to the entire inland boundary of the resource protection area. Resource management areas consist of one or more of the following:

~~(a)~~ (1) One-hundred-year floodplains.

~~(b)~~ (2) Highly erodible soils, including steep slopes.

~~(c)~~ (3) Highly permeable soils.

~~(d)~~ (4) Nontidal wetlands not included in resource protection areas.

~~(e)~~ (5) Land areas a minimum of 100 feet in width that are located adjacent to and landward of every resource protection area.

Sec. 19-230. Chesapeake Bay preservation areas maps.

Chesapeake Bay preservation areas include resource protection areas and resource management areas. Subject to any adjustments by the director of environmental engineering pursuant to section 19-231, the boundaries of these areas are ~~established on~~ included as a map layer in the County's Geographic Information System (GIS) which is available for viewing in the department of environmental engineering. This GIS map layer shall serve as the general determination of the extent of the resource protection area boundary as defined in 9 VAC 10-20-80. ~~Chesapeake Bay preservation areas maps, which are adopted by reference and which shall be kept on file in the director of environmental engineering's office. For purposes of the Chesapeake Bay Preservation Act, Code of Virginia, § 10.1-2100 et seq., and the regulations promulgated by the Chesapeake Bay Local Assistance Board, VR173-02-01, the resource protection areas created by this division are declared to be "resource protection areas" and the resource management areas created by this division are declared to be "resource management areas."~~

Sec. 19-231. ~~Boundary adjustments.~~ Site-specific refinements of Chesapeake Bay Area boundaries and boundary adjustments.

(a) As part of, or prior to, the zoning application process, or during the review of a water quality impact assessment pursuant to subsection 19-232(e), a reliable, site-specific evaluation shall be conducted by the county office of water quality to determine whether water bodies on or adjacent to the proposed

development site have perennial flow. The Resource Protection Area boundaries for the site shall then be adjusted, as necessary, based on this evaluation.

~~(a)~~ (b) The director of environmental engineering may adjust the delineation of any resource protection area boundaries when an environmental site assessment prepared by a qualified expert indicates a need for change based on the environmental features listed in section ~~19-228(a)~~ 19-228(b)(1) through ~~(d)~~ (4). The environmental site assessment shall be drawn to scale and shall clearly delineate such environmental features. Wetlands delineations shall be performed in accordance with the procedures specified in the most recently approved edition(s) of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

~~(b)~~ (c) The director of environmental engineering may adjust the delineation of any resource management area boundaries when an environmental site assessment prepared by a qualified expert indicates a need for such change based on the environmental features listed in section ~~19-229(a)~~ 19-229(b)(1) through ~~(e)~~ (5). The environmental site assessment shall be drawn to scale and shall clearly delineate such environmental features. Wetlands delineations shall be performed in accordance with the procedures specified in the most recently approved edition(s) of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

~~(e)~~ (d) Any person aggrieved by the director of environmental engineering's decision concerning the boundaries of a resource protection area or a resource management area may appeal such decision in accordance with section 19-268(d).

~~(d)~~ (e) Boundary adjustments shall not be available to property that is undergoing redevelopment if, due to previous development of the property, the Chesapeake Bay preservation area features listed in section ~~19-228(a)~~ 19-228(b)(1) through ~~(d)~~ (5) or section ~~19-229(a)~~ 19-229(b)(1) through ~~(e)~~ (5) cannot be determined.

Sec. 19-232. Resource protection area regulations.

In addition to the general performance criteria set forth in section 19-233, the criteria in this section are applicable in resource protection areas.

~~(a) Allowable development. Land development within a resource protection area shall only be permitted if it is water dependent or constitutes redevelopment. Land development may be allowed in a resource protection area, subject to the approval of the department of environmental engineering, only if it (i) is water dependent; (ii) constitutes redevelopment; (iii) is a permitted encroachment established pursuant to subdivision (d) of this section; (iv) is a road or driveway crossing satisfying the conditions set forth in subdivision (a)(4) of this section; or (v) is a flood control or stormwater management facility satisfying the conditions set forth in subdivision (a)(5) of this section.~~

- ~~(1) A new or expanded water dependent facility may be permitted, provided that: A water quality impact assessment in accordance with section 19-232(e)(1) shall be required for any proposed land disturbance.~~
- ~~(2) Redevelopment shall conform to applicable stormwater management criteria and erosion and sediment control criteria set forth in section 19-232(b), section 19-233 and chapter 8. A new or expanded water-dependent facility may be permitted, provided that:~~

- a. It does not conflict with the comprehensive plan;
 - b. It complies with the performance criteria set forth in sections 19-232(b) and 19-233;
 - c. Any nonwater-dependent component is located outside any resource protection area; and
 - d. Access shall be provided with minimum disturbance necessary. If possible, a single point of access shall be provided.
- (3) Redevelopment shall be permitted in the Resource Protection Area only if there is no increase in the amount of impervious cover and no further encroachment within the Resource Protection Area, and it shall conform to applicable erosion and sediment control and stormwater management criteria set forth in section 10-233, as well as all applicable stormwater management requirements of other state and federal agencies.
- (4) Roads and driveways not exempt under section 19-235 (a) (1) may be constructed in or across Resource Protection Areas only if each of the following conditions are met:
- a. The department of environmental engineering makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the Resource Protection Area.
 - b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize the encroachment in the Resource Protection Area and adverse impacts on water quality.
 - c. The design and construction of the road or driveway satisfies all applicable criteria of this chapter, including submission of a water quality impact assessment.
 - d. The department of environmental engineering reviews the plan for the road or driveway proposed in or across the Resource Protection Area.
- (5) Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas, provided that (i) the department of environmental engineering has conclusively established that the location of the facility within the Resource Protection Area is the optimum location; (ii) the size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both; (iii) the facility must be consistent with the Watershed Management Plan for the Swift Creek Reservoir or any other stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the county's Chesapeake Bay Preservation Act program; (iv) all applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agencies, such as the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission; (v) approval must be received from the department of environmental engineering prior to construction; and (vi) routine maintenance is allowed to be performed on

such facilities to assure that they continue to function as designed. It is not the intent to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a Resource Protection Area.

(b) Conservation area requirements. The 100-foot conservation area shall be the landward component of the Resource Protection Area as set forth in subsection 19-228 (b) (4). Notwithstanding permitted uses and encroachments, as set forth in 19-232 (c) and (d), the 100-foot conservation area shall not be reduced in width. To minimize the adverse effects of human activities on the other components of the Resource Protection Area, state waters, and aquatic life, a 100-foot wide conservation area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. The following criteria shall apply to the 100-foot conservation area.

- (1) A vegetated conservation area that retards runoff, prevents erosion and filters nonpoint source pollution from runoff shall be retained if present and shall be established in areas where it does not exist. The conservation area shall be located adjacent to and landward of the environmental features listed in section 19-228(a) through (d) and along both sides of any tributary stream. The vegetated conservation area shall extend a minimum of 100 feet in width from such environmental features and tributary streams. The full conservation area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients. After considering a water quality impact assessment, the director of environmental engineering may approve a combination of a 50 foot or wider vegetative conservation area and appropriate best management practices located landward of the conservation area that collectively achieve water quality protection, pollutant removal and water resource conservation at least the equivalent of the full conservation area. The 100-foot wide conservation area shall be deemed to achieve a 75% reduction of sediments and a 40% reduction of nutrients.
- (2) The vegetated conservation area shall be maintained to meet the following additional performance standards: Where land uses such as agriculture or silviculture within the area of the conservation area cease and the lands are proposed to be converted to other uses, the full 100-foot wide conservation area shall be reestablished. In reestablishing the conservation area, management measures shall be undertaken to provide woody vegetation that assures the conservation area functions set forth in this chapter.
- (3) Existing vegetation in the conservation area shall not be cleared or disturbed except (i) as provided in section 19-232(c) and (d) and (ii) with the prior approval of the water quality administrator. Further, replacement of vegetation with a lawn shall not constitute compliance with the requirements of 19-232 (b).
- (4) All terrain vehicles shall be prohibited in Resource Protection Areas.

(c) Permitted modifications of the conservation area.

- a. (1) In order to maintain the conservation area's functional value, indigenous existing vegetation may only be removed, subject to the approval of the water quality administrator, only to provide for reasonable sight lines, access paths, pedestrian ways, general woodlot

management and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:

1. a. Trees may be pruned or removed if necessary to provide for sight lines and vistas. If trees are removed, they shall be replaced with other vegetation that, in the judgment of the water quality administrator, is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff.
 2. b. Any ~~pedestrian way~~ path shall be constructed and surfaced to effectively control erosion.
 3. c. Dead, diseased or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed, pursuant to sound horticultural practices at the discretion of the landowner, ~~and silvicultural thinning may be conducted based upon the recommendation of a professional forester or arborist.~~
 4. d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
- ~~b. When compliance with the conservation area requirements will result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the director of planning or the planning commission may modify the conservation area's width at the time of subdivision, schematic, site plan or improvement sketch approval, in accordance with the director of environmental engineering's recommendation, based upon the following criteria:~~
- ~~1. Modifications to the conservation areas shall be the minimum necessary to achieve a reasonable building area for a principal structure and necessary utilities.~~
 - ~~2. If possible, an area equal to the area encroaching into the conservation area shall be established elsewhere on the lot or parcel to maximize water quality protection.~~
 - ~~3. In no case shall the reduced portion of the conservation area be less than 50 feet in width.~~
- e. (2) On agricultural lands, the conservation area shall be managed to prevent concentrated flows of surface water from breaching the conservation area and appropriate measures may be taken to prevent noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the conservation area. The a Agricultural activities may encroach into the conservation area may be reduced only as follows:
1. a. ~~To a minimum width of 50 feet when the adjacent land is implementing a federal,~~

~~state or locally funded agricultural best management practices program, provided that the combination of the reduced conservation area and the best management practices achieves water quality protection, pollutant removal and water resource conservation at least the equivalent of the full conservation area. Agricultural activities may encroach within the landward 50 feet of the 100-foot wide conservation area when at least one agricultural best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land is being implemented on the adjacent land provided that the combination of the undisturbed conservation area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot conservation area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the Virginia Nutrient Training and Certification Regulations (4 VAC 5-15) administered by the Virginia Department of Conservation and Recreation.~~

~~2. b.~~ To a minimum width of 25 feet when a soil and water quality conservation plan, approved by the James River Soil and Water Conservation District, has been implemented on the adjacent land. Such plan shall be based on the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with this division. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide conservation area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, approved by the James River soil and water conservation district, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance levels, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining conservation area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot conservation area.

~~3. c.~~ The conservation area is not required for drainage ditches associated with agricultural land if the adjacent agricultural land has in place at least one best management practices in accordance with a conservation plan approved by the James River Soil and Water Conservation District which, in the opinion of the James River soil and water conservation district, addresses the predominant water quality issues on the adjacent land.

(d) Permitted encroachments into the conservation area.

1. When the application of the conservation area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, encroachments into the conservation area may

be allowed through an administrative process, in accordance with the following criteria:

- a. Encroachments into the conservation area shall be the minimum necessary to achieve a buildable area for a principal structure and necessary utilities.
- b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the conservation area encroachment, and is equal to the area of encroachment into the conservation area shall be established elsewhere on the lot or parcel.
- c. The encroachment may not extend into the seaward 50 feet of the conservation area.
- d. A written request for an exception to this division's requirements shall be made to the director of environmental engineering. It shall identify the impact of the proposed exception on water quality, on public safety and on lands within the resource protection area through the completion of a water quality impact assessment that complies with section 19-232 (e).

~~(e)~~ (e) Water quality impact assessments and resource protection area restoration plans.

- (1) A water quality impact assessment shall be submitted to, and approved by, the ~~director of environmental engineering~~ water quality administrator for any proposed development within a resource protection area, including any conservation area modification or ~~reduction~~ encroachment authorized as provided by section ~~19-232(b)~~ 19-232(d), and may be required by the director of environmental engineering for any other development in Chesapeake Bay preservation areas based on the site's unique characteristics or the intensity of the proposed use or development. The purpose of the water quality impact assessment is to identify and, where applicable, quantify the impacts of proposed development on water quality and lands in the Resource Protection Areas consistent with the goals and objectives of the Chesapeake Bay Preservation Act, this chapter, and to identify specific measures for the mitigation of those impacts. There shall be two types of water quality impact assessments: a minor assessment and a major assessment.
 - a. *Minor water quality impact assessment.* A minor water quality impact assessment shall be required for a development or redevelopment which involves 2,500 square feet or less of land disturbance. The minor water quality assessment must demonstrate that the combination of undisturbed conservation area, restoration plantings and identified best management practices or measures will be effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. The minor water quality impact assessment shall include a site drawing, to scale if practicable, which shows the following:
 - (i) The location of the resource protection area;
 - (ii) The location, ~~and nature~~ and quantification of proposed encroachments into the resource protection area, including type of material proposed to be used

for access paths, areas of clearing or grading, location of any structures, drives or other impervious surfaces;

- (iii) Justification for ~~any~~ the proposed encroachment;
- (iv) Type and proposed location of any best management practice facilities or measures; and
- (iv) Existing and proposed runoff outfalls from the property;
- (v) Location and density of existing vegetation on site, including the number and type of trees and other vegetation to be removed in the conservation area as a result of the encroachment or modification; and
- (vii) A restoration plan that includes the replacement of vegetation that has been removed from the conservation area. The type, quantity and density of vegetation shall be capable of retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

~~b. Major water quality impact assessment. A major water quality impact assessment shall be required for a development which exceeds 2,500 square feet of land disturbance. The major water quality impact assessment shall be prepared by a qualified expert and shall include:~~

- (i) All information required for a minor water quality impact assessment;
- (ii) ~~The site's existing topography, soil characteristics, erosion potential and hydrology;~~ A description of the proposed encroachment including:
 - 1. A description of the proposed improvements, including structures (including the type and size), roads, access paths, irrigations systems, lighting systems, and utilities;
 - 2. If an access path is proposed, an identification of the location of the path and the materials that will be used for the path.
- (iii) ~~A description of impacts on wetlands and streams;~~ A description of the encroachment site's physical characteristics including:
 - 1. The site's existing topography, soil characteristics, erosion potential and hydrology;
 - 2. A description of wetland areas including their functions and values;
 - 3. A description of streams and other water bodies;

4. Location and density of existing vegetation on site, including the number and type of trees and other vegetation categorized by type (e.g. shrubs, trees, groundcover) within 50 feet of the proposed land disturbance.

(iv) A description of measures to mitigate any identified impacts; A discussion of the potential water quality impacts of the proposed encroachment, including:

1. A quantification of any identified impacts on streams or other water bodies, including potential erosion and sedimentation that could enter those waters as a result of the encroachment;
2. An identification and quantification of any impacts on wetlands, including impacts on wetland hydrology;
3. An identification of temporary or permanent impacts to streams or other water bodies;
4. An identification of any areas to be disturbed outside the resource protection area that have the potential to adversely affect the resource protection area;
5. The limits of clearing, grading and the percent of the site to be cleared;
6. Where applicable, an estimation of the pre-construction and post-construction pollutant loads;
7. Estimation of the percent increase in impervious cover;
8. A discussion of the number and type of trees and other vegetation to be removed in the conservation area as a result of the encroachment or modification;
9. A discussion of proposed changes to the site topography and hydrology and the impacts of those changes on water quality;
10. A construction schedule, including the anticipated duration of construction.

(v) A list of trees six inches or greater in diameter at breast height and of indigenous vegetation which is within 50 feet of the proposed land disturbance; ~~A discussion of measures to mitigate the identified impacts, including:~~

1. A Restoration Plan that includes the replacement of vegetation that has been removed from the conservation area. The Plan shall

include the schedule for replanting, which shall take into account the appropriate season for replanting. The type, quantity and density of vegetation specified shall be capable of retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. The vegetation specified plantings shall, to the maximum extent practicable, consist of native species.

2. A listing of proposed erosion and sediment control measures, including additional measures that are beyond those required chapter 8 of the Code of Chesterfield County;
3. A listing of best management practices and measures to reduce impacts on water quality;
4. A discussion that demonstrates, in a quantifiable manner, that the combination of revegetation and best management practices will achieve pollutant removal that is equivalent to that which is achieved without the encroachment.
- ~~5. A listing of other mitigation measures that may be required by the director of environmental engineering or the water quality administrator.~~

- (vi) The limits of clearing and grading and proposed measures to preserve existing trees and indigenous vegetation;
- ~~(vii) Proposed plantings and other vegetative measures to enhance water quality and a proposed construction schedule; and~~
- (viii) Other measures required by the director of engineering to ensure that the impact on water quality can be accurately predicted.

e. When a person has violated the requirements of this subsection, the violator shall submit a resource protection area restoration plan to the water quality administrator for review and approval. The intent of the restoration plan is to ensure that the resource protection area function are restored in a manner that will achieve the pollutant removal requirements as defined in 19-232(b)(1). The restoration plan shall specify the types and number of vegetation to be planted and a schedule for the installation of the plantings. When determined to be necessary by the water quality administrator, the violator shall provide surety in an amount sufficient, as determined by the water quality administrator, to purchase and reinstall any vegetation required by the restoration plan that has not survived for one year from date of installation. The surety must be in a form approved by the county attorney's office and may consist of a certified check, cash escrow, a surety bond, or a letter of credit from a financial institution. The establishment of a lawn shall not constitute a satisfactory restoration of the resource protection area.

Sec. 19-233. Resource management area regulations General performance criteria.

Any use, development or redevelopment of land within a Chesapeake Bay Preservation Area shall meet the following performance criteria:

- (a) No more land shall be disturbed than is necessary to provide for the ~~desired~~ proposed use or development.
- (b) Indigenous vegetation shall be preserved to the maximum extent ~~possible~~ practicable consistent with the use or development allowed.
- (c) Land development shall minimize impervious cover consistent with the use or development allowed.
- (d) ~~(1)~~ Stormwater runoff shall be controlled to achieve the following: All development exceeding 2,500 square feet of land disturbance shall be subject to the site plan or subdivision review processes.
 - a. ~~For any new use or development, the post-development nonpoint-source pollution runoff load shall not exceed the pre-development load, based on the calculated average land cover condition of the county.~~
 - b. ~~For redevelopment sites not currently served by water quality best management practices, the existing nonpoint-source pollution load shall be reduced by at least ten percent after redevelopment.~~
 - c. ~~For redevelopment sites currently served by water quality best management practices, the post-development nonpoint-source pollution runoff load shall not exceed the existing load.~~
- (e) Any land disturbing activity that exceeds an area of 2,500 square feet (including construction of all single family houses, septic tanks and drainfields, but other wise as defined in § 10.1-560 of the Code of Virginia) shall comply with the requirements of the local erosion and sediment control ordinance.
- (f) Stormwater management criteria consistent with the water quality protection provisions (4 VAC 3-20-71 et. seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20) shall be satisfied.
- (2) ~~(1)~~ The following stormwater management options shall be considered to comply with the requirements of this subsection ~~(d)(1)~~:
 - a. Incorporation on the site of best management practices that ~~achieve the required control.~~ meet the water quality protection requirements set forth in this subsection. For the purposes of this subsection, the "site" may include multiple projects or properties that are adjacent to one another or lie within the same drainage area where a single best management practice will be utilized by those projects to satisfy water quality protection requirements;

- b. ~~Compliance with a locally adopted regional stormwater management program incorporating pro rata share payments pursuant to the authority provided in Code of Virginia, § 15.2-2243, that achieves equivalent water quality protection, the Watershed Management Plan for the Swift Creek Reservoir which has been found by the Chesapeake Bay Local Assistance Board to achieve water quality protection equivalent to that required by this subsection;~~
 - c. ~~Compliance with a state or locally implemented program of stormwater discharge permits pursuant to section 402(p) of the federal Clean Water Act, as set forth in 40 CFR 122, 123, 124 and 504, dated December 7, 1988, and as amended. site-specific VPDES permit issued by the Department of Environmental Quality, provided the department of environmental engineering specifically determines that the permit requires measures that collectively achieve water quality protection equivalent to that required by this subsection.~~
 - d. ~~For a redevelopment site that is completely impervious as currently developed, restoring a minimum of 20 percent of the site to vegetated open space.~~
- (3) (2) Any maintenance, alteration, use or improvement to an existing structure ~~which~~ that does not degrade the quality of surface water discharge, as determined by the director of environmental engineering, may be exempted from the requirements of this subsection. Any person aggrieved by a decision of the director of environmental engineering under this subsection may appeal such decision in accordance with the procedures provided in section 19-268(d).
- (4) (3) ~~Compliance with the requirements of subsection (d)(1) shall be determined by reference to total phosphorus loads in stormwater runoff. The post-development total phosphorus loads in stormwater runoff shall not exceed 0.45 pounds per acre per year. Stormwater management criteria for redevelopment shall apply to any redevelopment.~~
- (e) (g) ~~If~~ Where the best management practices utilized in a commercial development require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by a maintenance/easement agreement, commercial surety bond, bank letter of credit or other assurance satisfactory to the director of environmental engineering. ~~If~~ Where the best management practices utilized for a residential development require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by a commercial surety bond, bank letter of credit or cash escrow in an amount equal to \$100.00 for each dwelling unit in a residential development. The requirement excludes apartment developments outside the Swift Creek Reservoir Watershed. The form of any bond or letter of credit provided pursuant to this section shall be subject to approval by the county attorney.
- (f) (h) Land on which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, shall have a soil and water quality

conservation plan approved by the James River Soil and Water Conservation District. Such plan shall be based upon the Field Office Technical Guide of the U.S. Farm Service Agency Soil Conservation Service and accomplish water quality protection consistent with this section assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Chesapeake Bay Preservation Act and this division.

- (g) (i) The director of environmental engineering may authorize the developer to use a retention or detention basin or alternative best management practice facility to achieve the performance criteria set forth in subsection (d) this chapter.
- (j) The department of environmental engineering shall require evidence of all wetlands permits required by law prior to authorizing grading or other on-site activities.
- (k) Proposed new golf courses and the significant refurbishment of existing golf courses shall conform to the following criteria. Significant refurbishment entails complete redesign and construction of existing golf course fairways and greens and shall not constitute simply replanting of grass on existing fairways and greens:

 - (1) A nutrient and pest management plan must be submitted and approved by the environmental engineering department and the county extension agent prior to the initiation of golf course operations. All components of the plan shall be implemented for the life of the golf course.
 - (2) As much stormwater runoff as practicable shall be directed to ponds or golf course features that have a pollutant removal capacity. Where this is not achievable, all fertilized areas and parking areas must drain through another form of best management practice (BMP) facility prior to entering an adjacent water body. The department of environmental engineering shall approve such BMPs.
 - (3) Cart paths crossing natural watercourses shall be constructed at least one foot above the 100-foot floodplain elevation. Such crossing structures shall employ the column and beam construction method when crossing resource protection areas, Riparian Corridor Management Areas (as defined by the Swift Creek Reservoir Management Plan & Maintenance Program), and wetlands.

Sec. 19-234. Exemptions in resource protection areas.

(a) ~~Construction, installation, operation and maintenance of electric, gas and telephone transmission lines, railroads and public roads and their appurtenant structures in accordance with the Erosion and Sediment Control Law, Code of Virginia, §§ 10.1-560-10.1-571, or an erosion and sediment control plan approved by the Virginia Soil and Water Conservation Board shall constitute compliance with this division's requirements.~~ The following land disturbances in resource protection areas may be exempt from the criteria of section 19-232 provided that, in the judgment of the director of environmental engineering, they comply with subdivisions 1 through 4 below: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails and

pathways; and (iii) historic preservation and archaeological activities.

- (1) Any required permits, except those to which this exemption specifically applies, shall have been issued;
- (2) Sufficient and reasonable proof is submitted that the intended use shall not result in an adverse impact on water quality;
- (3) The intended use does not conflict with nearby planned or approved uses; and
- (4) Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of chapter 8 and the Code of Chesterfield County.

~~(b) Construction, installation and maintenance of water, sewer and local gas lines shall be exempt from this division's requirements, provided that:~~

- ~~(1) To the degree possible, the location of such utilities and facilities should be outside resource protection areas.~~
- ~~(2) No more land than necessary shall be disturbed to provide for the desired utility installation.~~
- ~~(3) All construction, installation and maintenance of such utilities and facilities shall be in compliance with any applicable federal, state and local requirements and permits and designed and conducted in a manner that protects water quality.~~
- ~~(4) Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of chapter 8 and this division.~~

~~(e) (b) Silvicultural activities in Chesapeake Bay Preservation Areas shall be exempt from this division's requirements, provided that such activities adhere to water quality protection procedures prescribed by the department of forestry in its "Best Management Practices Handbook for Forestry Operations," as amended. The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas. This exemption shall not apply to land disturbing activities on land in an agriculturally zoned district which is not used directly for the management of agricultural crops, forest crops and livestock, or land which has been rezoned or converted, or proposed to be rezoned or converted, at the request of the owner or previous owner, from an agricultural to a residentially, commercially or industrially zoned district or use.~~

~~(d) The following land disturbances may be exempted from resource protection area regulations:~~

- ~~(1) Water wells;~~
- ~~(2) Passive recreation facilities such as boardwalks, trails, pathways and gazebos; and~~
- ~~(3) Historic preservation and archaeological activities; provided that the director of environmental engineering finds that:~~

- a. ~~Any required permits, except those to which this exemption specifically applies, shall have been issued;~~
- b. ~~Sufficient and reasonable proof is submitted that the intended use shall not deteriorate water quality;~~
- c. ~~The intended use does not conflict with nearby planned or approved uses; and~~
- d. ~~Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of chapter 8 and this division.~~

~~(e)~~ (c) Nonresidential uses which are located over 100 feet from and are not adjacent to R, R-MF or R-TH Districts or any property used for residential purposes, schools, child care centers, playgrounds, shopping centers, libraries, hospitals, public institutions or similar facilities shall be exempt from the provisions of sections 19-233(g)(2)a-e and (3)d 19-241.

Sec. 19-235. Exemptions and Exceptions.

(a) ~~A written request for an exception to this division's requirements shall be made to the director of environmental engineering. It shall identify the impact of the proposed exception on water quality, on public safety and on lands within the resource protection area through the performance of a water quality impact assessment which complies with section 19-232(c), provided that in the case of an exception requested from the required safety measures, a water quality impact assessment shall not be required if the request is supported by documentation which demonstrates that the request will not be detrimental to public safety and welfare.~~ Public utilities, railroads, public roads, and facilities exemptions.

- (1) Construction, installation, operation and maintenance of electric, natural gas, fiber-optic and telephone transmission lines, railroads and public roads and their appurtenant structures in accordance with (i) the Erosion and Sediment Control Law (Va. Code §10.1-560 et seq.), and the Stormwater Management Act (Va. Code § 10.1-603.1 et seq.), or (ii) an erosion and sediment control plan and stormwater management plan approved by the Virginia Department of Conservation and Recreation. The exemption of public roads is further conditioned as follows: optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the Resource Protection Area and adverse impacts on water quality.
- (2) Construction, installation and maintenance of water, sewer natural gas, and underground telecommunications and cable television lines owned, permitted, or both, by the county or a regional service authority shall be exempt from this division's requirements, provided that:
 - a. To the degree possible, the location of such utilities and facilities should be outside resource protection areas.
 - b. No more land than necessary shall be disturbed to provide for the proposed utility installation.
 - c. All construction, installation and maintenance of such utilities and facilities shall be in

compliance with any applicable federal, state and local requirements and permits and designed and conducted in a manner that protects water quality.

- d. Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of chapter 8 and this division.

(b) ~~The director of environmental engineering shall review the exception request and the water quality impact assessment, if required. In making a determination, he may impose conditions or require alternatives that are necessary to protect water quality, protect the public safety and welfare and further the purpose and intent of this division. He may grant the exception if he finds all of the following:~~ Exceptions.

- (1) ~~Granting the exception shall not confer any special privileges upon the applicant that are denied by this division to other property owners in resource protection areas or resource management areas.~~ Exceptions to the requirements of sections 19-232 and 19-233 may be granted, subject to the procedures set forth in 19-235(b)(2), provided that a finding is made that:

- a. The requested exception is the minimum necessary to afford relief.
- b. Granting the exception shall not confer any special privileges upon the applicant that are denied by this division to other property owners who are subject to its provisions and who are similarly situated.
- c. The exception is in harmony with the purpose and intent of this division and will not result in a substantial detriment to water quality.
- d. The exception request is not based on conditions or circumstances that are self-created or self-imposed.
- e. Reasonable and appropriate conditions are imposed, as warranted, that will ensure that the permitted activity will not cause a degradation of water quality.
- f. The request is being made because of the particular physical surroundings, use, shape or topographical conditions of the specific property involved or property adjacent to or within 100 feet of the subject property, or a particular hardship to the owner will occur, as distinguished from a mere inconvenience, if the strict letter of this division is carried out.

- (2) ~~The exception request is not based on conditions or circumstances that are self-created or self-imposed.~~ Exception process.

- a. Exceptions to requirements of section 19-232.

- 1. A request for an exception to the requirements of section 19-232, except for an encroachment permitted under 19-232(d), shall be made in writing to the planning commission. It shall identify the impact of the proposed exception on water quality, on public safety and on lands within the resources

protection area through development of a water quality impact assessment which complies with section 19-232 (e). Exception requests seeking relief from the best management practice facility safety measures and design criteria required in sections 19-241 and 19-242 shall not require the completion of a water quality impact assessment if the request is supported by documentation which demonstrates that the request will not be detrimental to public safety and welfare.

2. The planning department shall notify the affected public of any such exception requests and the planning commission shall consider these requests during a public hearing in accordance with Va. Code § 15.2-2204, except that only one hearing shall be required.
3. The planning commission shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this division only if the commission makes the findings set forth in section 19-235(b)(1).
4. If the planning commission cannot make the required findings or refuses to grant the exception, it shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.

b. Exceptions to the requirements of section 19-233. Upon written request, the director of environmental engineering may approve exceptions to the requirements of section 19-233 when the director finds that the criteria of section 19-235(b)(1) have been satisfied.

~~(3) — The exception request is the minimum necessary to afford relief.~~

~~(4) — The exception request will be consistent with the purpose and intent of this division and not injurious to the neighborhood or otherwise detrimental to public safety and welfare.~~

~~(5) — The request is being made because of the particular physical surroundings, use, shape or topographical conditions of the specific property involved or property adjacent to or within 100 feet of the subject property, or a particular hardship to the owner will occur, as distinguished from a mere inconvenience, if the strict letter of this chapter is carried out.~~

~~(c) — Any person aggrieved by the director of environmental engineering's decision concerning an exception request may appeal the decision in accordance with section 19-268.~~

Sec. 19-236. Other exceptions.

- (1) In addition to the requirements of this chapter, no use which is nonconforming to the requirements of this division, in a Chesapeake Bay preservation area, shall be enlarged, extended, reconstructed, substituted or structurally altered unless the director of environmental engineering grants an exception

pursuant to section 19-235, and also finds that:

- a. There will be no net increase in the nonpoint source pollution load; and
- b. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of chapter 8 and division 4 of article IV of this chapter.

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Sec. 19-241. Design criteria for all basins.

All basins required by the director of environmental engineering as either a stormwater management facility or a Best Management Practice for water quality improvement or designed as a retention or detention facility for any new development or redevelopment of property shall conform to the following criteria:

(1) *Safety criteria.*

a. ~~Outflow device safety measures.~~

~~1. If a vertical sided weir box is located within the basin's embankment, a six-foot fence or dense vegetative barrier, or a combination thereof, shall be installed as prescribed by the director of environmental engineering. If a dense vegetative barrier is used, it shall be designed and installed in accordance with professionally accepted landscaping practices and procedures. Plans for the vegetative barrier, including the size and description of proposed plant materials, shall be approved by the director of environmental engineering. The director of environmental engineering shall approve plans for the vegetative barrier, including the size and description of proposed plant materials. The dense vegetative barrier shall be a minimum of six feet in width. If a fence or vegetative barrier is to be established around the entire basin facility in accordance with subsection (1)(b), then no barrier or fence is required around the weir box. If a developer uses a concrete weir for either the principal or emergency spillway and the concrete weir is greater than three feet in depth, a pedestrian crossing or access structure shall be established across the weir. A fence or vegetative barrier, or combination thereof, may be substituted if the pedestrian crossing is not practicable.~~

b. ~~Basin safety measures and dimensions.~~

~~1. The following safety measures shall be required for that portion of each basin which that has a side slope above the normal water surface which that is steeper than 6:1 over a horizontal distance of 20 feet or more.~~

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4. If a fence is used, the minimum height of the fence shall be six feet. The fence may be made of a dense vegetative barrier. If the fence is made of a

vegetative barrier, it shall be designed and installed in accordance with professionally accepted landscaping practices and procedures. ~~Plans for the vegetative barrier, including the size and description of proposed plant materials, shall be approved by the director of environmental engineering.~~ The director of environmental engineering shall approve plans for the vegetative barrier, including the size and description of proposed plant materials. If a vegetative barrier is used, the property owner or developer shall provide to the county a form of surety for the cost of materials and installation for the proposed plant materials. Provisions for maintenance of and access to the fence or vegetative barrier shall be included in the best management practice easement dedication.

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6. Side slopes. The side slopes above the normal water surface elevation in basins shall be no steeper than 3:1 (horizontal to vertical). If the excavation of the slope to 3:1 will result in the removal of dense vegetation or woodland ~~which~~ that is acting to stabilize the slope, the developer may seek an exception from the director of environmental engineering pursuant to the provisions of section 19-235 to leave the slope in its existing condition.

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Sec. 19-242. Minimum criteria for basins serving as a best management practice for water quality improvement.

(a) *Depth.* Basins sized solely as best management practice facilities in conformance with the Chesapeake Bay Preservation Act shall have a range in depth of three to eight feet to prevent stratification. For those basins which have been designed with sections which exceed eight feet in depth, only those portions which are less than eight feet in depth shall be included as part of the best management practice facility volume. Basins ~~which~~ that are less than one acre in surface area shall not exceed eight feet in depth.

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Sec. 19-301. Definitions.

Nontidal wetlands: Those wetlands other than tidal wetlands ~~"that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions",~~ as defined by the U.S. Environmental Protection Agency pursuant to section 404 of the federal Clean Water Act in 33 CFR 328.3b, ~~dated November 13, 1986, as amended.~~

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Resource protection area: That component of the Chesapeake Bay preservation area comprised of lands ~~at or near the shoreline~~ adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts that may result in

significant degradation to the quality of state waters.

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Silvicultural activities: Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Va. Code § 10.1-1105 and are located on property defined as real estate devoted to forest use under Va. Code § 58.1-3230.

o o o

Tidal wetlands: Vegetated and nonvegetated wetlands as defined in Va. Code § 28.2-1300.

o o o

Tributary stream: Any perennial stream that is so depicted as a solid blue line on the most recent U.S. Geological Survey 7.5-minute topographic quadrangle map (scale 1:24,000).

o o o

Water Body with Perennial Flow: A body of water that flows in a natural or man-made channel year-round during a year of normal precipitation. This includes, but is not limited to streams, estuaries, and tidal embayments and may include drainage ditches or channels constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary sources for stream flow.

o o o

Water-dependent facility: A development of land that cannot exist outside of a resource protection area and must be located on the shoreline because of the intrinsic nature of its operation. These facilities include, but are not limited to:

- (1) Ports.
- (2) The intake and outfall structures of power plants, water treatment plants, sewage treatment plants and storm sewers.
- (3) Marinas and other boat docking structures.
- (4) Natural bBeaches and other water-oriented recreation areas.
- (5) Fisheries or other marine resources facilities.

o o o

(2) *That this ordinance becomes effective immediately upon adoption.* (1923:63078.1 Revised 11.07/03 1:45 p. m.)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **COMPREHENSIVE PLANS and RELATED ORDINANCE AMENDMENT.**

◆ **THE ETTRICK VILLAGE PLAN.**

◆ ◆ ◆

The Ettrick Village Plan, replacing the current adopted Ettrick Village Plan (1991) and amending the Thoroughfare Plan, parts of the Plan for Chesterfield, as the Plan relates to Ettrick Village and the surrounding area of the County. The Ettrick Village Plan area is bounded by Oldtown Creek to the north, by the Appomattox River to the south, by the city of Colonial Heights to the east and the Matoaca Village Plan (in progress) to the west. The Ettrick Village Plan, if adopted by the Board of Supervisors, will become part of the Plan for Chesterfield, the County's Comprehensive Plan. The Plan for Chesterfield is used by County citizens, staff, the Planning Commission and Board of Supervisors as a guide for future decisions affecting the County including, but not limited to, decisions regarding future land use, road networks and zoning actions.

◆ ◆ ◆

Mr. Haasch presented an overview of the proposed Ettrick Village Plan with land use and transportation recommendations and a related Code Amendment, as well as staff's recommendation for approval.

Mr. Gecker opened the discussion for public comment.

Mr. Lawrence Pollard, an Ettrick Village resident, expressed concerns relative to the proposal resulting in increased development, the narrowing of the right of way width along Chesterfield Avenue and questioned if provisions for additional school facilities had been considered.

In response to Mr. Pollard's concerns regarding Chesterfield Avenue, Mr. McCracken indicated there would be no need to reserve additional right of way because there were no plans to widen Chesterfield Avenue.

There being no one else to speak, Mr. Gecker closed the public comment.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of the Ettrick Village Plan, replacing the current adopted Ettrick Village Plan (1991) and amending the Thoroughfare Plan, parts of the Plan for Chesterfield, as the Plan related to Ettrick Village and the surrounding area of the County. The Ettrick Village Plan area is bounded by Oldtown Creek to the north, by the Appomattox River to the south, by the city of Colonial Heights to the east and the Matoaca Village Plan (in progress) to the west.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **CODE AMENDMENT RELATING TO DEVELOPMENT STANDARDS WITHIN THE VILLAGE CORE.**

◆ ◆ ◆

An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Sections 19-144, 19-600, 19-606, 19-608 and 19-609 relating to the Ettrick Village Plan.

◆ ◆ ◆

No one came forward to speak in favor of, or in opposition to, the proposed Code Amendment.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of the following Code Amendment:

(1) *That Sections 19-144, 19-600, 19-606, 19-608 and 19-609 of the Code of the County of Chesterfield, 1997, as amended, be amended and re-enacted to read as follows:*

ARTICLE III. DISTRICTS

o o o

DIVISION 18. C-1 CONVENIENCE BUSINESS DISTRICT

o o o

Sec. 19-144. Permitted uses by right.

Within any C-1 District, no buildings, structures or premises shall be used, arranged or designed to be used except for one or more of the following uses:

o o o

- (i) Commercial parking lots within the Ettrick ~~Business Village~~ Village eCore.

o o o

- (m) Dwellings, single family within the Ettrick ~~Business Village~~ Village Core.

o o o

ARTICLE VII. DEVELOPMENT STANDARDS MANUAL

o o o

DIVISION 3. DEVELOPMENT REQUIREMENTS – OFFICE, COMMERCIAL AND INDUSTRIAL

o o o

Subdivision IV. Development Requirements – Post Development Areas

o o o

Sec. 19-600. Areas of applicability and exemptions.

The post-development areas shall include all lands as specified herein and which are located in office, commercial, business and industrial districts. Post-developed areas shall include:

o o o

- (5) Ettrick Community, bounded by Dupuy Road on the north, the Colonial Heights corporate limits on the east, the Petersburg corporate limits on the south and the Seaboard Coastline Railroad on the west, except for that area designated on the Ettrick Village Plan as the Ettrick Village Core area.

o o o

Subdivision V. Development Requirements – Village District

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Sec. 19-606. Areas of applicability and exemptions.

The village district shall include all lands specified in this section.

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- (7) The Ettrick ~~Business~~ Village Core, comprised of all that area shown on the Chesterfield County zoning maps as Ettrick ~~Business~~ Village Core or ~~EBC~~ EVC.

o o o

Sec. 19-608. Exceptional development standards.

(a) *Parking:* Parking requirements in the village district for indoor commercial recreational facilities; self-service gasoline stations; office buildings of up to 26,500 square feet; restaurants, including fast-food and drive-in restaurants; retail stores; personal services; repair shops; banks; greenhouses; nursery centers; and lawn and garden centers shall be based on the requirements for shopping centers or similar retail groups of buildings as set forth in section 19-513. Improved, designated parking spaces in a public right-of-way may be counted toward the required number of parking spaces so required when more than one-half of each such space adjoins the site. Further, the required number of parking spaces may be reduced by ten percent if the development contains a sidewalk or other pedestrian walkway system that connects to existing walkways or that may be connected to future walkways. In addition if approved by the director of planning, in the Bon Air Village, a business may reduce the required number of onsite parking spaces by pro-rata if it has an agreement with another entity permitting off-site parking on a lot located within the Bon Air Village boundaries or within 1000 feet of the Bon Air Village boundaries. All other requirements of division 1, subdivision II of this manual shall apply as described. In the Ettrick ~~Business~~ Village Core, the following uses shall be exempt from the requirements of Section 19-513 ~~and 19-509(b):~~ offices having a gross floor plan area which does not exceed five thousand (5,000) square feet, restaurants and retail uses, including personal services, repair shops, specialty shops and contractor offices without heavy vehicles or equipment.

- (b) *Landscaping:*

o o o

- (2) *Ettrick ~~Business~~ Village Core:* All development, except commercial parking lots, shall be exempt from the requirements of Article VII Division 1 ~~Development Standards~~, Subdivision III ~~Landscaping of the Development Standards Manual~~. If off-street parking areas are constructed in front of the building line or on a lot without a building, the following minimum landscaping shall be required: a low hedge or low, partially transparent fence along the front setback line.

o o o

- (c) *External lighting:* Except for lamps attached to a building, the maximum height for lampposts shall be 20 feet. All requirements of section 19-573 shall apply in the Ettrick ~~Business~~ Village Core; however, porch lights, gas lamps and period lighting that is in keeping with the small scale pedestrian oriented character of the village, and that do not use high intensity discharge lamps, shall be exempted from said requirements. Lamps attached to a building shall be no higher than the roofline or parapet wall.

o o o

- ~~(h) *Buffers and screening in the Ettrick Village Core:* Buffers required by section 19-523 shall not apply. If parking is provided on any property in an O, C or I district adjacent to an R, R-TH, MH or R-MF district, a ten-foot wide buffer shall be provided. This buffer shall include an evergreen hedge with a minimum installed height of four feet or a solid fence or wall six feet in height. Along side property lines that abut property in R, R-TH, MH or R-MF districts, this buffer may be reduced to a width of three feet in accordance with section 19-609(g)(2).~~

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Sec. 19-609. Setback requirements for O and C Districts.

o o o

- (f) *Ettrick ~~Business~~ Village Core:* If a uniform pattern of setbacks, lot widths and building widths exists, infill development should generally maintain existing spacing and rhythm. Nothing in this subsection is intended to discourage renovation or expansion of existing structures, except that additions shall not extend farther into these setbacks than the existing building(s). The minimum setbacks for all buildings, drives and parking areas shall be as follows:

o o o

- (2) *Side setbacks:* The minimum side setback for buildings, drives and parking areas shall be zero feet, except when adjacent to a lot zoned for residential use, in which case the minimum side setback for buildings, drives and parking areas shall be ten feet. The ten-foot setback for driveways and parking areas may be reduced to three zero feet with the provision of a six four-

foot ~~solid wood decorative~~ fence along the adjacent residential lot and the ten-foot setback for buildings may be reduced to three feet if the building, by its design, provides the same screening as a fence, as determined through site plan review zero feet provided that the walls facing an adjacent residential property contain no openings.

(2) *That this ordinance becomes effective immediately upon adoption.* (1923:63041.1)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **THE PUBLIC FACILITIES PLAN (SCHOOL COMPONENT).**



The Public Facilities Plan (Schools Section), replacing the current adopted Schools Section of the Public Facilities Plan (1995), part of the Plan for Chesterfield, as the Plan relates to County-wide public school facilities. The Public Facilities Plan area includes all of Chesterfield County. The Public Facilities Plan (Schools Section), if adopted by the Board of Supervisors, will become part of the Plan for Chesterfield, the County's Comprehensive Plan. The Plan for Chesterfield is used by County citizens, staff, the Planning Commission and Board of Supervisors as a guide for future decisions affecting the County including, but not limited to, decisions regarding future land use, road networks and zoning actions.



Mr. Schlaudt presented a computer-generated overview of the Public Facilities Plan as it related to schools, providing information pertinent to elementary, middle and high school facilities relative to existing facilities; level of service indicators; existing system conditions; population growth; growth trends; enrollment projections; recent school planning effort approaches to high school facility planning; and additional information/suggested modifications from the Commission's October 27, 2003, Special Work Session.

Mr. Gecker explained the Plan process and its status to this point and the Commission's position relative to the currently adopted 1995 Public Facilities Plan versus the proposed draft 2003 Public Facilities Plan; stated the Commission would take public comment on the School Component of the draft Public Facilities Plan and close the public hearing on that portion of the Plan; defer action until such time as a timetable could be provided to allow the scheduling of a future work session to review the remaining elements of the Plan and a public hearing could be scheduled on the entire Plan; and pointed out that, although action would be taken on the three (3) Substantial Accord Determination requests on the proposed school sites, public comment would not be taken, as a public hearing had been conducted and closed on those issues on November 10, 2003.

Mr. Gecker opened the discussion for public comment.

Ms. Beth Davis, Chairwoman of the School Board, referenced the adopted School Board Policy which she noted identified five (5) criteria for evaluating the needs for new school facilities, noting that all criteria must be weighed and balanced and balanced solutions found to best meet the educational needs of the County's students and maintain fiscal responsibility for the taxpayers.

Dr. Billy Cannaday, Jr., School Superintendent, addressed elements of the Plan relative to elementary, middle and high schools, noting the need for an elementary school in the Bermuda area but pointing out that locating a school in the Rivers Bend area would not provide the necessary relief to the communities further west but that the remaining recommendations related to elementary schools were consistent with School Board's current

Capital Improvement Program (CIP) and long-range facilities plan; referenced County data; with respect to recommendations for middle school facilities, noting that areas served by Manchester Middle, Robious Middle and Providence Middle Schools were not projected to experience even moderate growth but were in the low-to-lowest growth areas whereas Swift Creek Middle, Midlothian Middle and Bailey Bridge Middle Schools, even with recent additions, were at or above capacity and serving areas that were among the highest growth areas in the County and, therefore, needed an additional middle school in the area to provide relief to those schools; referenced County data relative to high schools, pointing out that the proposed Plan recommended a new high school be constructed in the northeast area of the County, generally east of Courthouse Road, west of Chippenham Parkway, south of Midlothian Turnpike and north of Falling Creek, to address the convenience of high school students to facilities but pointed out that as with the middle school recommendation, the area was not expected to experience even moderate growth; therefore, the number of students who were beyond the convenience factor cited in the Plan would not increase but would likely decrease without additional action that was being required or taken; addressed findings and conclusions of the Site Review Committee relative to potential sites for a new high in the northeastern portion of the County and evaluation of the current Manchester Middle School site as a possible high school site; referenced/reiterated Ms. Davis' comments that the Board believed that reinvestment in older neighborhoods was appropriate when it served the educational needs of students, displayed sensitivity to the communities' expectations and concerns who were affected by the decisions and demonstrated fiscal responsibility to taxpayers; and stated the School Administration supported the proposal for two (2) new high school facilities as the Genito Road/Route 288 site would provide relief for Midlothian and Clover Hill High Schools and the Cosby Road site would provide relief for Clover Hill and Manchester High Schools, allowing for the significant growth as projected to occur in the Spring Run area of the County.

Mr. Litton left the meeting at approximately 8:29 p. m.

Ms. Brenda Mayo, Principal of Clover Hill High School, expressed concerns relative to the renovation of Clover Hill High School, noting the option was unacceptable. She pointed out that such a Plan risked forcing high school students to endure renovations during some of their most important educational years; that upgrading or renovating Clover Hill to current high school standards could equal or exceed new construction costs; and urged the Commission to recommend approval of the Substantial Accord requests for two (2) new high schools so that Clover Hill High School could be renovated while vacant in order to be restored as a middle school. She reminded the Commission that the work of educating the County's children was important work and that every delay impacted the children, the number one priority of Chesterfield County public schools.

Ms. Yvonne Mullins, a Midlothian resident and current PTSA President at Clover Hill High School, expressed concerns relative to fallacies of the proposed Plan, which she listed, and suggested revisions to the 2003 Plan which primarily addressed the "convenience factor" and modifications to the wording of Options A and B under the High School Facility Planning. She stated many schools were overcrowded and new schools should be built where growth trends indicated the populations existed.

Ms. Rebecca King, representing Homeowners for Quality Schools, stated her group felt the Plan was very good but they were concerned about the timing of when the new schools would come on line compared to the forecasts; requested that a specific elementary school be moved forward in the Plan to be constructed within the next CIP which encompassed 2010; and questioned if what should be done was construction of two (2) high schools and a middle school now, let the current Clover Hill High School empty out and then assess whether or not the next new school needed for the community would be a high school or a middle school and renovate the facility while empty with no harm to anyone's learning environment.

Mr. John Ealey, co-President of Exponents, a group of parents of math/science students at Clover Hill High School, stated he felt the use of the terms "imported/exported students" was a poor choice of words and asked that they be revised; stated he felt Specialty Center Programs contributed to a school's reputation which was viewed by parents as a cause and effect of which school their child attended; that convenience was not always a factor; that Specialty Centers raised competition among the schools and made them better; questioned how the "study lines or areas" were determined; and took strong exception to language on page 10 of the Plan which indicated the movement of out-of-area students may be viewed as a significant cause of overcrowding in high schools such as Clover Hill and Manchester, which he stated he felt overstated the situation and undersold what the School Board was attempting to accomplish with the Specialty Centers and Specialty Programs.

Mr. Litton returned to the meeting at approximately 8:59 p. m.

Ms. Patty Carpenter, representing Homeowners for Quality Schools, stated the proposed Public Facilities Plan appeared to be sufficient as it related to the schools and the previously presented information. She addressed the timetable to construct schools, noting that if some of the projects were not constructed until 2012 the circumstances would be same, if not worse. She asked that the Commission and the School System continue to work together to develop the best plan and achieve the best outcome for all concerned.

Mr. William Shewmake, a Midlothian resident, stated his primary concern was the middle school, pointing out the tremendous growth potential in the Route 288 Corridor and the strong need for elementary schools in the area.

Mr. Jeff Collins, a County resident, referenced the renovation process that transpired at Thomas Dale High School, noting his children attended school there at that time; that the impact of the renovation to the students was very disruptive and stressful; and cautioned against the upgrading of school facilities with students using the facilities.

There being no one else to speak, Mr. Gecker closed the public comment at approximately 9:05 p. m.

Mr. Gulley stated, as a point of clarification, he felt it important that those present understand the proposed draft 2003 Public Facilities Plan was formulated by the Planning Department; that the Commission's responsibility, as a collective body, was to bring together the differences between perhaps what the School Administration believed should be in the Plan, what citizens believed should be in the Plan and what the Commission, as a collective body, believed should be in the Plan; and that the Commission's took ownership of the Plan only when it was forwarded it to the Board of Supervisors as a recommendation. He indicated he had concerns relative to elements of the Plan and would continue to address those concerns throughout the remainder of the process; that he did not support the renovation of Clover Hill High School; and that, as Mr. Gecker had indicated, the Commission would continue to work on the Plan into next year, refine it, resolve the differences between what the current Plan stipulated and citizens' input and work closely with the School Administration to achieve a comprehensive agreement once the document was forwarded to the Board of Supervisors.

Mr. Cunningham stated, although he would not be participating in the process as the Bermuda District Commissioner in 2004, he did share the concerns expressed about schools located in the Bermuda District and he agreed with Mr. Gulley that, as the process moved forward, there would be negotiations and cooperation among many people to make recommendations for changes with respect to the Plan, one of which he felt would be the location of the elementary school in the Rivers Bend or Enon area.

Mr. Gecker stated he did not think the importance of the complete 2003 Plan could be overstated; that he felt Public Facilities Plan should be done in advance of the schools because the Commission was bound by law to consider and find Substantial Accord Determinations in compliance with the Comprehensive Plan; that the Commission was faced with the necessity to have plans be as accurate as possible and to be as good a guide as possible because the Commission had restrictions and responsibilities with which they must comply; and that the Commission would move forward as expeditiously as possible to create a Plan that would be acceptable to all the constituent groups.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission deferred the School Component of the draft 2003 Public Facilities Plan to the December 16, 2003, Planning Commission Work Session, at which time, with information provided by staff, the Commission could establish a schedule for a future work session to consider incorporation of any additional comments relative to the School Component as well as the remaining elements of the Plan and to schedule a public hearing on the complete draft 2003 Public Facilities Plan.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

The Commission recessed at approximately 9:19 p. m.

The Commission reconvened at approximately 9:28 p. m.

◆ **ACTION ON SUBSTANTIAL ACCORD DETERMINATION REQUESTS.**

04PD0188: In Matoaca Magisterial District, **FIRST CHOICE PUBLIC-PRIVATE PARTNERS IN PARTNERSHIP WITH CHESTERFIELD PUBLIC SCHOOLS** requested Substantial Accord Determination to permit a public high school on 97.9 acres fronting approximately 475 feet on the north line of Cosby Road, approximately 2,700 feet west of Hull Street Road. Tax ID 714-672-8470 (Sheet 15).

Mr. Gecker noted on November 10, 2003, the Commission conducted a public hearing on the Substantial Accord request for Case 04PD0188, closed the public hearing and deferred action to this meeting.

Mr. Jacobson disclosed that his wife was employed at Millwood School, which facility could be affected by Condition 5.a. outlined in the "Request Analysis;" declared a potential conflict of interest pursuant to the Virginia Conflict of Interest Act with respect to Case 04PD0188, First Choice Public-Private Partners in Partnership with Chesterfield Public Schools; appointed Ms. Beverly Rogers as temporary Secretary to the Commission; and excused himself from the meeting at approximately 9:30 p. m.

Mr. Gulley addressed concerns relative to the .22 phosphorous Ordinance of the Regional BMP Plan, noting that he wished to recommend that Case 04PD0188 be conditioned to construct a performance BMP on the site, not a sediment basin, that would be in compliance with the .22 phosphorous Ordinance

In response to Mr. Gulley's comments, Messrs. McElfish and Hostettler addressed drainage concerns, indicating the developer had proposed that the large silt basin through which the majority of construction would drain would remain in place after construction and converted into an end-of-system treatment to act as additional water quality protection for the Reservoir and that a pro-rata fee for development was required to be paid for compliance with the Upper Swift Creek Watershed Regional Master Plan.

Mr. Gulley stated he would be more comfortable with a condition stipulating the construction of a performance basin that complied with the performance criteria dictating a .22 maximum phosphorous runoff as set forth in the Upper Swift Creek Watershed Regional Master Plan.

Upon conclusion of discussion relative to Mr. Gulley's recommended condition, Mr. Hostettler indicated the condition was acceptable.

In response to questions from Mr. Stack, Mr. McCracken addressed transportation concerns relative to a proposed east/west collector ("Village Square Parkway Extended"), extending from its current terminus west of Woodlake Village Parkway near Millwood School, westward through the property to Otterdale Road' a proposed north/south collector ("Fox Club Parkway Extended") extending from its current terminus in Foxcroft Subdivision, southward along the eastern boundary of the property, across Cosby Road to Route 360 at the Hampton Park Drive intersection.; dedication of right of way for and construction of two (2) lanes of Village Square Parkway Extended from its current terminus to the western boundary of the subject property and of Fox Club Parkway Extended from its current terminus to Route 360; and other necessary road improvements.

Mr. Gulley read his suggested condition for the record.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission found Case 04PD0188 to be in Substantial Accord with the Comprehensive Plan, subject to the following conditions:

CONDITIONS

1. With the exception of setbacks for play fields, courts, swimming pools and similar active recreational areas, development of the property shall conform to the development standards of the Zoning Ordinance for Corporate Office (O-2) Districts in Emerging Growth Areas. (P)

(NOTE: The requirements of the underlying Agricultural (A) zoning classification, where these requirements exceed the requirements of the Zoning Ordinance for O-2 Districts in Emerging Growth Areas, remain applicable for any school development on the subject property.)

2. Recreational Facility Setbacks. The following setback criteria shall apply to outdoor play fields, courts, swimming pools and similar active recreational areas:
 - a. Outdoor play fields, courts, swimming pools and similar active recreational areas shall be located a minimum of 100 feet from adjacent properties zoned for agricultural or residential use and a minimum of fifty (50) feet from any proposed public road(s). Within these setbacks, existing vegetation shall be supplemented, where necessary, with landscaping or other devices designed to achieve the buffering standards contained in Section 19-522 (a)(2) of the Zoning Ordinance.
 - b. If outdoor play fields, courts, swimming pools and similar active recreational areas are setback more than 100 feet from adjacent properties zoned agriculturally and residentially and more than fifty (50) feet from any proposed public road(s), the landscaping and other design features described in Condition 2.a. may be modified by the Planning Department at the time of site plan review. Such modification shall accomplish a mitigation of the visual and noise impacts that sports or relative

activities have on adjacent properties equivalent to the 100 foot/fifty (50) foot setback/landscaping requirements described in Condition 2.a.

- c. The 100 foot setback described in Condition 2.a. may be reduced by the Planning Commission if the resulting increased visual and noise impacts that sports or related activities have on area residences are mitigated. Mitigation may be achieved through the use of topography, fencing, berming, walls and/or other devices and design features, as approved by the Planning Commission at the time of site plan review.
(P)
- 3. Public water shall be used. (U)
- 4. Prior to final site plan approval, a seventy (70) foot wide right of way for an east/west collector through the northern part of the property shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. The exact location of this right of way shall be approved by the Transportation Department. (T)
- 5. Prior to the issuance of an occupancy permit, the following road improvements shall be constructed, as determined by the Transportation Department:
 - a. Construction of two (2) lanes of an east/west collector, to VDOT urban collector standards (40 mph) with modification approved by the Transportation Department, from its current terminus located adjacent to the parcel identified as Tax ID 717-673-2340, westward to the western boundary of the property ("Village Square Parkway Extended").
 - b. Full cost of traffic signalization, including construction of additional pavement along Woodlake Village Parkway to provide southbound left and right turn lanes, at the Village Square Parkway/Village Square Place/Woodlake Village Parkway intersection, if warranted, as determined by the Transportation Department.
 - c. Construction of two (2) lanes of a north/south collector, to VDOT urban collector standards (40 mph) with modification approved by the Transportation Department, from its current terminus located north of West Branch, southward to Route 360 at the Hampton Park Drive intersection ("Fox Club Parkway Extended").
 - d. Construction of additional pavement along the westbound lanes of Route 360 at the Fox Club Parkway Extended intersection to provide a right turn lane.
 - e. Construction of additional pavement along the eastbound lanes of Route 360 at the Fox Club Parkway Extended intersection to provide an adequate left turn lane. The exact length of this improvement shall be approved by the Transportation Department.
 - f. Construction of the Fox Club Parkway Extended at its intersection with Route 360 as a six (6) lane typical section (i.e., two (2) northbound lanes and four (4) southbound lanes). The exact length of this improvement shall be approved by the Transportation Department.
 - g. Full cost of traffic signalization at the Fox Club Parkway Extended/Hampton Park Drive/Route 360 intersection, if warranted, as determined by the Transportation Department.
 - h. Construction of additional pavement along Village Square Parkway Extended and Fox Club Parkway Extended at each approved access and at the Village Square Parkway

- Extended/Fox Club Parkway Extended intersection to provide left and right turn lanes, as determined by the Transportation Department.
 - i. Installation of flashing "School Zone" lights, if approved by VDOT, at all access locations. The exact locations shall be approved by the Transportation Department.
 - j. Dedication to Chesterfield County, free and unrestricted, of any additional right of way (or easements) required for the improvements identified above. (T)
6. Direct access from the property to Village Square Parkway Extended and Fox Club Parkway Extended shall be limited to no more than two (2) entrances/exits onto each roadway. The exact location of these accesses shall be approved by the Transportation Department. (T)
 7. A water quality best management facility shall be constructed on-site to achieve a maximum phosphorous runoff limit of .22 pounds per acre per year or a regional BMP shall be in place through which this site shall drain into. (EE)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

Mr. Jacobson returned to the meeting at approximately 9:45 p. m.

04PD0163: In Clover Hill Magisterial District, **FIRST CHOICE PUBLIC-PRIVATE PARTNERS IN PARTNERSHIP WITH CHESTERFIELD PUBLIC SCHOOLS** requested Substantial Accord Determination to permit a public high school on 80.5 acres fronting approximately 1,900 feet on the south line of Genito Road, also fronting approximately 2,400 feet on the west line of Route 288 and located in the southwest quadrant of the intersection of these roads. Tax IDs 732-687-3969 and 733-686-0961 (Sheet 10).

Mr. Gecker noted on November 10, 2003, the Commission conducted a public hearing on the Substantial Accord request for Case 04PD0163, closed the public hearing and deferred action to this meeting.

In response to questions from the Commission, staff addressed concerns relative to access to a north-south arterial road (Old Hundred Road) which could minimize traffic congestion on Genito Road; downstream drainage problems not being adequately addressed; whether or not the current Public Facilities Plan provision of "to be determined" supported more than one (1) high school at this time in consideration of recent analysis; and other concerns.

Mr. Gulley stated he felt approval of the request was appropriate, provided a condition addressing the installation of a best management facility on the site was imposed, which condition he read.

Mr. Gulley made a motion to find Case 04PD0163 in Substantial Accord with the Comprehensive Plan, subject to the conditions outlined in the "Request Analysis" and the imposition of an additional condition to stipulate the installation of a regional BMP facility to address drainage concerns.

There was no second to the motion; therefore, the motion failed.

On motion of Mr. Litton, seconded by Mr. Stack, the Commission found Case 04PD0163 not to be substantially in accord with the County's Comprehensive Plan because the site failed to provide sufficient access to a north-south arterial (Old Hundred Road) which would minimize traffic congestion on Genito Road, downstream

drainage problems had not be adequately addressed and the current Public Facilities Plan provision of “to be determined” did not support more than one (1) high school at this time in consideration of recent analysis.

AYES: Messrs. Gecker, Litton, Cunningham and Stack.
NAY: Mr. Gulley.

04PD0158: In Clover Hill Magisterial District, **CHESTERFIELD COUNTY PUBLIC SCHOOLS** requested Substantial Accord Determination to permit conversion of a public high school to a public middle school on 49.4 acres and is known as 13900 Hull Street Road. Tax ID 726-673-1225 (Sheet 15).

Mr. Gecker noted on November 10, 2003, the Commission conducted a public hearing on the Substantial Accord request for Case 04PD0158, closed the public hearing and deferred action to this meeting.

On motion of Mr. Litton, seconded by Mr. Stack, the Commission found Case 04PD0158 not to be substantially in accord with the County’s Comprehensive Plan because the current Public Facilities Plan did not support the need for a middle school between 2000 and 2015.

AYES: Messrs. Gecker, Litton, Cunningham and Stack.
ABSTENTION: Mr. Gulley.

◆ **ACTION ON DEFERRED ITEM FROM 3:00 P. M. AFTERNOON SESSION.**

04PR0192: In Clover Hill Magisterial District, **FIRST CHOICE PUBLIC-PRIVATE PARTNERS** requested Planning Commission approval for a buffer reduction for Phase Two of the grading plan for the proposed Genito Road High School. This development is commonly known as **GENITO ROAD HIGH SCHOOL**. This request lies in a Light Industrial (I-1) District on a 12.35 acre parcel fronting approximately 940 feet on the west line of Route 288, also lying approximately 1,500 feet south of the intersection of Genito Road and Route 288. Tax ID 733-686-0961 (Sheet 10).

Mr. Gecker noted action on Case 04PR0192 had been deferred from the 3:00 p. m. Afternoon Session to allow the request to be considered at the same time the Substantial Accord Determination requests for the three (3) school sites were considered.

Mr. Steve Hostettler, the applicant’s representative, accepted staff’s recommendation.

Mr. Gulley stated he preferred the request be deferred for thirty (30) days so the applicant could address the possibility of purchasing additional land to allow the installation of BMPs.

Mr. Allen presented an overview of the request and staff’s recommendation.

No one came forward to speak in favor of, or opposition to, the proposal.

On motion of Mr. Gulley, seconded by Mr. Gecker, the Commission resolved that approval for a buffer reduction for Phase Two of the grading plan for the proposed Genito Road High School, Case 04PR0192 (First Choice Public-Private Partners (Genito Road High School), shall be and it thereby was granted, subject to the following conditions and review comments:

CONDITIONS

1. A fifty (50) foot buffer shall be provided along the south line of the parcel. Landscaping within this buffer shall comply with Section 19-518(g)(4) Perimeter landscaping C (option I), except where existing underground utilities easements are located at the eastern end of the buffer. If existing vegetation does not satisfy this requirement, as determined in the field by the Planning Department, a landscape plan shall be submitted to the Planning Department for review and approval prior to occupancy of the building. Evergreen trees may be substituted for the large and small deciduous tree requirements as approved by the Planning Department. (P)
2. Plans shall be resubmitted for administrative review and approval in accordance with the review comments. (P)

REVIEW COMMENTS:

1. With the addition of Note 5 in the erosion control sequence for Phase I, additional erosion control plan sheets and narratives must be provided that depict no clearing or disturbance within the Phase II area during Phase I construction. These must be provided in addition to the phase for the initial clearing and installation of perimeter control measures and the phase for the clearing and grading of the remainder of the site. (EE)
2. Provide an alternate erosion control plan for the eastern side of the site as a contingency plan if it is determined the super silt fence is not working as intended. (EE)
3. The pre-developed and post developed runoff calculations (including the routings) must be revised using the correct saturation factors for the twenty-five (25) year and 100 year storms. (EE)
4. The post-developed weighted runoff coefficient must be consistent with the pre-developed weighted runoff coefficient used to determine the pre-developed flows in each analysis. (i.e., pre-developed analysis calculated a "c" of 0.20 for 44 acres, the ultimate site and ex. Off-site used a "c" of 0.20 for 60.8 acres, the initial used a "c" of 0.20 for 53.85 acres, etc.). (EE)
5. Provide MS-19 calculations for the outfalls along Route 288. (EE)
6. A land disturbance permit is required for this project and the following are required prior to its issuance:
 - a.) Substantial or full site plan approval
 - b.) A VDOT land use permit. (EE)
7. On all plan sheets indicate parcel 733-686-0961 (the triangular parcel at the south end of the site) as Phase II of any land disturbance activity. Clearly label the Phase II area and provide Note 5 from sheet C2.0 on all erosion & sediment control and grading plans. (P)
8. These plans must incorporate applicable requirements of the Planning Commission substantial accord hearing and the Planning Commission hearing regarding the buffer

modifications. Any comments made at this time may be subject to change once these hearings are complete, and additional comments may be generated. If the Planning Commission approves the fifty (50) foot buffer reduction along the south line of the I-1 parcel, label the fifty (50) foot buffer including the note: "Tree Save Areas – No Access Permitted". If buffer reduction is not approved, compliance with the 100 foot buffer, or other width as approved by the Commission, must be provided. (P)

9. The Planning Department has determined that the proposed encroachments into the setback along Route 288 have a minimal impact on areas of substantial vegetative cover and therefore approve the clearing within areas of the setback as observed on the site. Prior to clearing operations, tree protection fencing, reviewed and approved by the Planning Department, shall be installed in all tree save areas. Call Jeff Lamson at 751-4158 to schedule an inspection of tree protection. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

04SN0107: In Dale Magisterial District, **JACOBS GLENN LC** requested amendment to zoning (Case 00SN0266) and amendment of zoning district map to eliminate the requirement to provide an emergency access. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0 to 2.5 units per acre. This request lies in a Residential (R-12) District on 30.0 acres fronting approximately 800 feet on the west line of Newbys Bridge Road approximately 100 feet south of Valencia Road, also lying at the eastern terminus of Jacobs Bend Drive. Tax ID 759-684-2733 (Sheet 11).

Mr. Clay presented an overview of the request and staff's recommendation for denial, noting that with approval of Case 00SN0266, the applicant agreed to provide an emergency access from the eastern terminus of Jacobs Bend Drive through the subject property; the adjacent Jacobs Glenn Subdivision had more than fifty (50) homes with only one (1) point of access; the intent of the emergency access from the subject property to Jacobs Glenn Subdivision was to provide a second means of access for emergency vehicles; and since the current zoning prohibited a public road connection to the stub road, the emergency access road should still be required.

Mr. Andy Scherzer, the applicant's representative, did not accept staff's recommendation.

In response to questions from the Commission, Mr. Scherzer addressed connectivity concerns, noting that at the time of the original rezoning, the applicant had agreed to provide an emergency access to be able to construct fifty (50) homes with one (1) access because there had been no guarantee that the R-12 property to the south would be developed; since the property to the south was currently being developed, his client did not need to provide access to Jacobs Glenn Subdivision as it could be provided from the property to the south; and although his client was willing to install the connection, adjacent subdivision property owners did not want vehicular access to their property and maintenance of an emergency access connection that was not needed would be a burden on the homeowners' association of the subject property.

Mr. Litton stated he did not feel the developer of this project should be required to provide and maintain access to Jacobs Glenn Subdivision for the benefit of Jacobs Glenn residents.

In response to questions from the Commission, Assistant Fire Marshal Hall addressed the County's Connectivity Policy; the intent of the Policy to set forth specific requirements for making connections to, or providing, stub road streets; the applicant's agreement, at the time of the original zoning, to provide an emergency access to be able to construct fifty (50) homes with one (1) access; and support for staff's recommendation to deny the applicant's request to be relieved of the requirement to provide the emergency access.

Mr. Gecker opened the discussion for public comment.

Mr. Mike Sutton, a Jacobs Glenn Subdivision resident; stated there were access problems in many neighborhoods during the recent hurricane; that he did not think having a gated emergency access between the two (2) communities would have made any difference; and submitted a petition signed by twenty-seven (27) residents who opposed a connection to Jacobs Glenn Subdivision.

Ms. Julie Castillo, Mr. Ronnie Garrett, and Mr. Dan Hoover, all area residents, voiced opposition to the proposed connection; expressed concerns relative to cut-through traffic, litter, adherence to the established policy, etc.; and suggested the second access to the subject development be provided through property to the east to Newbys Bridge Road.

There being no one else to speak, Mr. Gecker closed the public comment.

Mr. Clay indicated there was an existing condition that precluded public road access to Jacobs Glenn Subdivision; if the applicant's request were granted, the requirement for the emergency access would be eliminated; and there would be no connection at all to Jacobs Glenn.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 04SN0107 and acceptance of the following proffered condition:

PROFFERED CONDITION

No public road connection shall be provided to Jacobs Bend Drive in the Jacobs Glenn Subdivision.
(P&T)

AYES: Messrs. Litton, Gulley and Stack.

NAYS: Messrs. Gecker and Cunningham.

03SN0200: In Matoaca Magisterial District, **ROCK VIEW HOMES, INC.** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-7) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2 units per acre or less. This request lies on 157.6 acres fronting in two (2) places for a total of approximately 550 feet on the west line of Otterdale Road, approximately 600 feet south of Broadmoore Road. Tax IDs 707-682-4055, 708-681-7138 and 708-683-1628 and 6612 (Sheets 8, 9, 14 and 15).

Ms. Peterson presented an overview of the request and staff's recommendation of denial.

Mr. John Easter, the applicant's representative, accepted staff's recommendation.

Mr. Daniel Hubbard, an area resident; Mr. Tom Pakurar, a Clover Hill District resident and Co-Chair of Hands Across the Lake; and Ms. Marlene Durfee, Co-Chair of Upper Swift Creek for Responsible Growth; expressed concerns relative to the condition of Otterdale Road; impacts on water quality; overcrowded schools; road infrastructure problems; growth issues and asked the Commission to consider deferral of the request to further address these concerns.

Mr. Steve Kessler, an Otterdale Road resident and Mr. Levis Crump, representing the estate property owner, supported approval of the request, noting that the proposal was compatible with existing development patterns.

There was discussion relative to drainage, erosion control, impacts on water quality, the installation of regional BMP facilities, road improvements, transportation improvements, the condition of area bridges and other issues of concern.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 03SN0200 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

The property owners and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owners and applicant. In the event this request is denied or approved with conditions not agreed to by the owners and applicant, the proffers shall immediately be null and void and of no further force or effect.

1. Limitation on Number of Dwellings. The overall number of dwellings for the entire Property shall not exceed three hundred fourteen (314) units. (P)
2. Transportation.
 - a. Dedication. In conjunction with the recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, the following rights-of-way shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County:
 - (i) Forty-five (45) feet of right-of-way on the west side of Otterdale Road, measured from the centerline of that part of Otterdale Road immediately adjacent to the Property; and
 - (ii) A ninety (90) foot wide right-of-way for an east/west arterial (the "East/West Arterial") from Otterdale Road to the western property line. The exact location of this right-of-way shall be approved by the Transportation Department.
 - b. Access. Direct access from the Property to Otterdale Road shall be limited to one (1) public road. The exact location of this access shall be approved by the

Transportation Department, and this access from the Property shall be the East/West Arterial.

In conjunction with the recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, an access plan for the East/west Arterial shall be submitted to and approved by the Transportation Department. Access from the Property to the East/West Arterial shall conform to the approved access plan.

- c. Road Improvements. To provide an adequate roadway system, the developer shall be responsible for the following:
- (i) Construction of two (2) lanes of the East/West Arterial, based on VDOT Urban Minor Arterial Standards (50 MPH) with modifications approved by the Transportation Department, from Otterdale Road to the western property line.
 - (ii) Construction of the East/West Arterial intersection with Otterdale Road as a three-lane typical section (i.e., one (1) westbound lane and two (2) eastbound lanes).
 - (iii) Construction of additional pavement along Otterdale Road at the East/West Arterial intersection and along the East/West Arterial at approved access points to provide left and right turn lanes, if warranted based on Transportation Department standards.
 - (iv) Widening/improving the west side of Otterdale Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, with modifications approved by the Transportation Department, for the entire property frontage.
 - (v) Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire the right-of-way necessary for the turn lanes along Otterdale Road as identified in Proffered Condition 2(c)(iii), the developer may request, in writing, the County to acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way, and only provide the road improvements that can be accommodated within available right-of-way as determined by the Transportation Department.
- d. Phasing Plan. Prior to any road and drainage plan approval or prior to any site plan approval, whichever occurs first, a phasing plan for the required improvements specified in Proffered Condition 2(c) shall be submitted to, and approved by, the Transportation Department. (T)

3. Public Utilities. The public water and wastewater systems shall be used. (U)
4. Timbering. With the exception of timbering to remove dead or diseased trees which has been approved by the Virginia State Department of Forestry, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed in accordance with The Forestry Best Management Practices for Water Quality in Virginia. (EE)
5. Cash Proffer. Prior to the time of issuance of a building permit for each new dwelling unit, the applicant, subdivider, or its assignee, shall pay to the County of Chesterfield the following amounts for infrastructure improvements within the service district for the Property:
 - a. For all residential units except those designated as age-restricted units in accordance with paragraph (b):
 - i. if payment is made prior to July 1, 2003, \$9000; or
 - ii. if payment is made after June 30, 2003, the amount approved by the Board of Supervisors, but not to exceed the \$9000 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2002 and July 1 of the fiscal year in which the payment is made; or
 - b. For all residential units designated for senior housing, the units of which meet the occupancy requirements for "age 55 or over" housing as set forth in section 3607 of the Fair Housing Act, 42 USC Section 3601 et seq., as amended by the Fair Housing Amendments Act of 1988, and of 24 CFR Section 100.304 in effect as of the date of the rezoning, and which are subject to the occupancy requirement that no person under 19 shall reside in such unit:
 - i. if payment is made prior to July 1, 2003, \$4815, to be allocated among the facility costs as follows: \$598 for parks, \$324 for library facilities, \$346 for fire stations, and \$3547 for roads; or
 - ii. if payment is made after June 30, 2003, the amount approved by the Board of Supervisors, but not to exceed the \$4815 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2002 and July 1 of the fiscal year in which the payment is made, to be allocated pro-rata among the facility costs as specified in (b)(i).

If any of the cash proffers are not expended for the purposes designated by the Capital Improvement Program within fifteen (15) years from the date of payment, they shall be returned in full to the payor. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not be in addition to, any impact fees, in a manner determined by the County. (B&M)

6. Senior Housing. At the time of recordation of the subdivision, any dwellings designated for senior housing shall be noted on the record plat. Lots containing such dwellings shall be grouped together as part of the same development section(s). (P)
7. Textual Statement. In conjunction with the approval of this request, the textual statement dated November 5, 2003 shall be approved. (P)
8. Lot Size and Density. All residential lots having only one access and that access is through Otterdale Park Subdivision shall have an average area of not less than 108,000 square feet. Such development shall not exceed a density of .4 units per acre. (P)

Mr. Gulley indicated he had serious concerns relative to impacts on water quality; pointed out that the area was already experiencing overcrowded schools, road infrastructure problems and growth issues; and construction of additional homes would only exacerbate the situation; and that he did not intend to support a recommendation for approval of the request.

Messrs. Gecker and Litton indicated they would be more comfortable with the request if the developer would proffer a condition to address water quality concerns similar to the condition proffered on Case 04PD0188.

Upon conclusion of further discussion, Mr. Harley Joseph, developer for the project, agreed to proffer a condition to leave in place the temporary sediment basins which would achieve the 0.22 phosphorous standards until a downstream regional BMP had been constructed.

It was the consensus of the Commission to continue with the remaining cases while the applicant and staff drafted language for the proffered condition.

Mr. Gecker noted that due to the lateness of the hour, and in accordance with the Commission's By-Laws that new cases will not be called after 11:00 p. m. without a unanimous vote of the Commission members present, it was necessary to suspend the By-Laws to continue the meeting.

On motion of Mr. Litton, seconded by Mr. Cunningham, the Commission suspended their By-Laws to continue the meeting after 11:00 p. m.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

04SN0115: (Amended) In Bermuda Magisterial District, **CESARE M. EVOLA AND TERESA B. EVOLA** requested rezoning and amendment of zoning district map from Agricultural (A) and Community Business (C-3) to Neighborhood Business (C-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for neighborhood mixed use. This request lies on 1.2 acres fronting approximately 200 feet on the north line of West Hundred Road, across from Inge Road. Tax IDs 814-652-6781, 7781 and 7994 (Sheet 27).

Mr. Clay presented an overview of the request and staff's recommendation.

Mr. Jeff Collins, the applicant's representative, accepted staff's recommendation.

Ms. Joyce Luck and Mr. David Call, residents of Inge Road, did not oppose the proposed zoning but expressed concerns relative to the closing of the crossover on Route 10 that served Inge Road.

In response to questions from Mr. Cunningham, Mr. McCracken indicated the approved Route 10 widening plans showed that this crossover will be closed and the applicant had proffered to close this crossover in accordance with those plans, if approved by the Virginia Department of Transportation.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission resolved to recommend approval of Case 04SN0115 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Direct access from the property to Route 10 shall be limited to one (1) entrance/exit. The exact location of this access shall be determined by the Transportation Department. Prior to any site plan approval, an access easement, acceptable to the Transportation Department, shall be recorded from Route 10 to the adjacent property to the east (Tax ID 8146529588). (T)
2. Prior to any site plan approval, one-hundred (100) feet of right-of-way measured from the centerline of Route 10 immediately adjacent to the property shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
3. Prior to the issuance of a certificate of occupancy, the developer shall: 1) construct an additional lane of pavement along Route 10 for the entire property frontage; and 2) close the existing crossover on Route 10 that aligns with the property and Inge Road, if approved by VDOT. The developer shall dedicate, free and unrestricted, to and for the benefit of Chesterfield County, any additional right-of-way required for these improvements. (T)
4. The public water and wastewater systems shall be used. (U)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

04SN0113: In Matoaca Magisterial District, **GLENN M. HILL** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use on 1-5 acre lots, suited to R-88 zoning. This request lies on 20.0 acres fronting approximately 1,000 feet on the east line of Bailey Bridge Road, approximately 550 feet south of Battlecreek Drive. Tax ID 735-670-7636 (Sheet 16).

Mr. Litton stated the firm with which he was employed, Austin Brockenbrough and Associates, was the designer for this project, declared a conflict of interest pursuant to the Virginia Conflict of Interest Act and excused himself from the meeting at approximately 12:20 a. m.

Ms. Peterson presented an overview of the request and staff's recommendation for denial, noting the proposed zoning and land use did not conform to the Southern and Western Area Plan.

Mr. Glenn Hill, the applicant, did not accept staff's recommendation.

Mr. Jerry Journigan, a Matoaca District resident, supported denial of the request indicating that the proposal failed to comply with the area Plan.

Mr. Stack indicated that unlike other areas designated for R-88 development, both public water and sewer were available and the proposed zoning was consistent with area zoning.

On motion of Mr. Stack, seconded by Mr. Gecker, the Commission resolved to recommend approval of Case 04SN0133 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Public water and wastewater systems shall be used. (U)
2. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead diseased trees, there shall be no timbering on the Property until a Land Disturbance Permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the County of Chesterfield prior to the issuance of building permit:
 - A. \$9,000.00 per dwelling unit, if paid prior to July 1, 2003; or
 - B. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1, of the fiscal year in which the payment is made if paid after June 30, 2003.
 - C. In the event the cash payment is not used for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
4. No more than 27 residential lots shall be developed on the subject property. (P)
5. **Minimum House Size:**
All dwelling units shall have a minimum gross floor area of 1,700 square feet except for dwelling units with more than one story which shall have a minimum gross floor area of 2,000 sq. feet. (P)
6. Minimum lot area shall be 15,000 square feet. (P)
7. Direct access from the property to Bailey Bridge Road shall be limited to one (1) Public Road. The exact location of that access shall be approved by the Transportation Department. (T)
8. **Right of Way Dedication:**
In conjunction with the recordation of the initial subdivision plat or within sixty (60) days of a written request by the County, forty-five (45) feet of right-of-way on the east side of Bailey Bridge Road, measured from the centerline of the part of Bailey Bridge Road immediately

adjacent to the property; shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)

9. **Construction:**

The applicant, subdivider or assignee(s) shall: (1) dedicate the required right-of-way and construct additional pavement along Bailey Bridge Road at the approved access point to provide left and right turn lanes if warranted, based on Transportation Department standards. In the event the Developer is unable to acquire the right-of-way necessary for the road improvements as described, the Developer may request, in writing, the County to acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the Developer. In the event the County chooses not to assist the Developer in acquisition of the "off-site" right-of-way, the Developer shall be relieved of the obligation to acquire the "off-site" right-of-way, and only provide the road improvement that can be accommodated within available right-of-way as determined by the Transportation Department; and (2) Construct additional pavement and shoulder along the south side of Bailey Bridge Road to provide an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, with any modifications approved by the Transportation Department for the entire property frontage. (T)

10. **Phasing Plan:**

Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffer 9, shall be submitted to and approved by the Transportation Department. (T)

AYES: Messrs. Gecker, Gulley and Stack.

ABSTENTION: Mr. Cunningham.

ABSENT: Mr. Litton.

Mr. Litton returned to the meeting at approximately 12:30 a. m.

04SN0120: In Clover Hill Magisterial District, **VICTOR MORRISSETTE** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) and relief to street access requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.5 units per acre or less. This request lies on 7.2 acres fronting approximately 200 feet on the east line of Stigall Drive across from Brandenburg Drive. Tax IDs 744-681-2542 and 4918 (Sheet 16).

Mr. Clay presented an overview of the request and staff's recommendation.

Mr. Harley Joseph, the applicant's representative, accepted staff's recommendation to approve the zoning but did not accept the recommendation to deny the exception to street access requirements.

No one came forward to speak in favor of, or in opposition to, the request.

Mr. Gulley indicated that the access which would have provided a second means of ingress and egress was

precluded from being extended through a previous zoning action and that the extension was eliminated because of neighborhood opposition.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 04SN0120 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. The public water and wastewater systems shall be used. (U)
2. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead and diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. Development shall be limited to a maximum of twelve (12) lots. (P)
4. The applicant, subdivider, or assignee(s) shall pay the following to The County of Chesterfield prior to the issuance of building permit for infrastructure improvements within the service district for the Property:
 - a. \$9,000 per dwelling unit, if paid prior to July 1, 2003; or the amount approved by the Board of Supervisors not to exceed \$9,000 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2002 and July 1 of the fiscal year in which the payment is made, if paid after June 30, 2003.

In the event the cash payments not used for the purpose for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
5. The minimum gross floor area for dwellings shall be:
 - a. one story – 1,300 square feet
 - b. more than one story – 1,850 square feet (B&I)

AYES: Messrs. Litton, Gulley and Stack.

NAYS: Messrs. Gecker and Cunningham.

03SN0312: In Matoaca Magisterial District, **VICTOR P. MORRISSETTE** requested rezoning and amendment of zoning district map from Residential (R-25) to Agricultural (A). Residential use of up to 1.0 unit per acre is permitted in an Agricultural (A) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1 to 5 acre lots, suited for Residential (R-88) zoning. This request lies on 67.3 acres fronting approximately 1,200 feet on the south line of Beach Road approximately 400 feet east of Buckhorn Road, also fronting in two (2) places for a total of approximately 220 feet on the east line of Buckhorn Road approximately 800 feet south of Beach Road. Tax IDs 740-650-6868; 740-651-3549, 6254 and 8357; 741-651-0661 and 3165 (Sheet 24).

Ms. Orr presented an overview of the request and staff's recommendation for denial, noting the proposed zoning and land use did not conform with the use suggested by the Southern and Western Area Plan and the request would allow the owner(s) to "road strip" the property without providing any transportation improvements, such as the North/South Arterial, which was not in accordance with the Thoroughfare Plan.

Mr. Harley Joseph, the applicant's representative, did not accept staff's recommendation.

Mr. Richard Ginty, a Deerwood Subdivision resident, voiced support for Agricultural (A) zoning.

Mr. Steve Barr, a Deerwood Subdivision resident, voiced opposition to the request and expressed concerns relative to access to Buckhorn Road, lot sizes and drainage.

Upon conclusion of discussion relative to road improvements issues, Mr. Stack stated his motion would be for denial but suggested the applicant could resolve these issues prior to the Board of Supervisors' consideration of the request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend denial of Case 03SN0312.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

Mr. Jacobson recalled Case 03SN0200, Rock View Homes, Inc.

03SN0200: In Matoaca Magisterial District, **ROCK VIEW HOMES, INC.** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-7) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2 units per acre or less. This request lies on 157.6 acres fronting in two (2) places for a total of approximately 550 feet on the west line of Otterdale Road, approximately 600 feet south of Broadmoore Road. Tax IDs 707-682-4055, 708-681-7138 and 708-683-1628 and 6612 (Sheets 8, 9, 14 and 15).

Mr. Easter provided language with respect to an additional proffered condition addressing water quality concerns, which he read for the record.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 03SN0200 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

The property owners and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owners and applicant. In the event this request is denied or approved with conditions not agreed to by the owners and applicant, the proffers shall immediately be null and void and of no further force or

effect.

1. Limitation on Number of Dwellings. The overall number of dwellings for the entire Property shall not exceed three hundred fourteen (314) units. (P)
2. Transportation.
 - e. Dedication. In conjunction with the recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, the following rights-of-way shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County:
 - (i) Forty-five (45) feet of right-of-way on the west side of Otterdale Road, measured from the centerline of that part of Otterdale Road immediately adjacent to the Property; and
 - (ii) A ninety (90) foot wide right-of-way for an east/west arterial (the "East/West Arterial") from Otterdale Road to the western property line. The exact location of this right-of-way shall be approved by the Transportation Department.
 - f. Access. Direct access from the Property to Otterdale Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department, and this access from the Property shall be the East/West Arterial.

In conjunction with the recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, an access plan for the East/west Arterial shall be submitted to and approved by the Transportation Department. Access from the Property to the East/West Arterial shall conform to the approved access plan.
 - g. Road Improvements. To provide an adequate roadway system, the developer shall be responsible for the following:
 - (i) Construction of two (2) lanes of the East/West Arterial, based on VDOT Urban Minor Arterial Standards (50 MPH) with modifications approved by the Transportation Department, from Otterdale Road to the western property line.
 - (ii) Construction of the East/West Arterial intersection with Otterdale Road as a three-lane typical section (i.e., one (1) westbound lane and two (2) eastbound lanes).
 - (iii) Construction of additional pavement along Otterdale Road at the East/West Arterial intersection and along the East/West Arterial at approved access points to provide left and right turn lanes, if warranted based on Transportation Department standards.
 - (iv) Widening/improving the west side of Otterdale Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved

shoulder, with modifications approved by the Transportation Department, for the entire property frontage.

- (vi) Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire the right-of-way necessary for the turn lanes along Otterdale Road as identified in Proffered Condition 2(c)(iii), the developer may request, in writing, the County to acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way, and only provide the road improvements that can be accommodated within available right-of-way as determined by the Transportation Department.

- h. Phasing Plan. Prior to any road and drainage plan approval or prior to any site plan approval, whichever occurs first, a phasing plan for the required improvements specified in Proffered Condition 2(c) shall be submitted to, and approved by, the Transportation Department. (T)

- 3. Public Utilities. The public water and wastewater systems shall be used. (U)

- 4. Timbering. With the exception of timbering to remove dead or diseased trees which has been approved by the Virginia State Department of Forestry, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed in accordance with The Forestry Best Management Practices for Water Quality in Virginia. (EE)

- 5. Cash Proffer. Prior to the time of issuance of a building permit for each new dwelling unit, the applicant, subdivider, or its assignee, shall pay to the County of Chesterfield the following amounts for infrastructure improvements within the service district for the Property:

- a. For all residential units except those designated as age-restricted units in accordance with paragraph (b):
 - i. if payment is made prior to July 1, 2003, \$9000; or
 - iii. if payment is made after June 30, 2003, the amount approved by the Board of Supervisors, but not to exceed the \$9000 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2002 and July 1 of the fiscal year in which the payment is made; or
- b. For all residential units designated for senior housing, the units of which meet the occupancy requirements for "age 55 or over" housing as set forth in section 3607 of the Fair Housing Act, 42 USC Section 3601 et seq., as amended by the Fair Housing Amendments Act of 1988, and of 24 CFR Section 100.304 in effect as of the date of

the rezoning, and which are subject to the occupancy requirement that no person under 19 shall reside in such unit:

- i. if payment is made prior to July 1, 2003, \$4815, to be allocated among the facility costs as follows: \$598 for parks, \$324 for library facilities, \$346 for fire stations, and \$3547 for roads; or
- iii. if payment is made after June 30, 2003, the amount approved by the Board of Supervisors, but not to exceed the \$4815 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2002 and July 1 of the fiscal year in which the payment is made, to be allocated pro-rata among the facility costs as specified in (b)(i).

If any of the cash proffers are not expended for the purposes designated by the Capital Improvement Program within fifteen (15) years from the date of payment, they shall be returned in full to the payor. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not be in addition to, any impact fees, in a manner determined by the County. (B&M)

- 6. Senior Housing. At the time of recordation of the subdivision, any dwellings designated for senior housing shall be noted on the record plat. Lots containing such dwellings shall be grouped together as part of the same development section(s). (P)
- 7. Textual Statement. In conjunction with the approval of this request, the textual statement dated November 5, 2003 shall be approved. (P)
- 8. Lot Size and Density. All residential lots having only one access and that access is through Otterdale Park Subdivision shall have an average area of not less than 108,000 square feet. Such development shall not exceed a density of .4 units per acre. (P)
- 9. The developer shall leave temporary sediment basins which would achieve the 0.22 phosphorus standard in place until the downstream regional BMP to which they drain has been constructed. (EE)

AYES: Messrs. Gecker, Litton, Cunningham and Stack.

NAY: Mr. Gulley, as he was not satisfied the water quality issue had been adequately addressed.

F. ADJOURNMENT.

There being no further business to come before the Commission, it was on motion of Mr. Cunningham, seconded by Mr. Stack, that the meeting adjourned at approximately 1:07 a. m. on Wednesday, November 19, 2003, to December 16, 2003, at 12:00 Noon in the Executive Session Meeting Room of the Chesterfield County Government Complex.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

Chairman/Date

Secretary/Date